

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

No. 27

UNITED STATES OF AMERICA, APPELLANT

v.

CONTAINER CORPORATION OF AMERICA, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA

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[Tr. A-160]

Monday, March 2, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendants: Each of the Defendants was represented by one or more counsel as appears of record, with the exceptions as stated by Mr. McNeill Smith.

DEPOSITION OF GEORGE WILLIAM COLVIN

(PX-10)

[Tr. A-161] Q. For the record, Mr. Colvin, would you please state your complete first name, middle name, and last name?

A. George William Colvin.

Q. And your residence, sir?

A. 350 North Stratford, Winston-Salem, North Carolina.

Q. And your business address, Mr. Colvin?

A. 25th Street, Winston-Salem, North Carolina; Container Corporation of America.

Q. What is your occupation, Mr. Colvin?

A. I am Vice President of Container Corporation of America, the Southeastern Division Manager.

Q. And would you describe your duties and responsibilities, Mr. Colvin?

A. In the Southeast Division of Container Corporation, we have five plants, and I have supervision over those five plants.

Q. And those plants make what product?

A. Corrugated boxes.

Q. And which plants are they, please?

A. We have a plant in Winston-Salem, North Carolina, Chattanooga, Tennessee; Knoxville, Tennessee; Nashville, Tennessee; and Fernandina Beach, Florida.

[Tr. A-162] Q. And how long have you been engaged in

any business connected with the manufacturing of corrugated containers?

A. I started in 1928.

Q. And has it been continuous ever since?

A. Continuous ever since, yes.

[Tr. A-163] Q. Now, were you in charge of the Winston-Salem plant from 1955 through 1961?

A. No, sir.

Q. What period of time were you in charge of the plant?

A. From 1955 through 1957.

Q. Now, how big an area did the Winston-Salem plant [Tr. A-164] service?

A. Did?

Q. Between the period from 1955 through 1957.

A. Well, they serviced all of North Carolina and a portion of South Carolina and a portion of Virginia, the very tip edge of Tennessee, I believe.

Q. Were there any factors that limited the area from a practical standpoint that that plant could service?

A. From a practical standpoint there are.

Q. From a business standpoint?

A. Yes.

Q. What were those factors?

A. Mostly freight. It gets out of the area of practicality if you pay too much freight.

Q. These corrugated shipping containers are sold on what basis, freight-wise?

A. Sold on a delivered basis.

Q. Has that been true throughout the period from 1955 to 1963 for the Southeast area?

A. I think so, yes, sir.

Q. It certainly was true insofar as your company was concerned?

A. Yes.

Q. I was inviting your attention to the sales of [Tr. A-165] corrugated containers in the Southeastern United States, and I now ask you, on those occasions when your

company received an inquiry for a corrugated shipping container from a customer that it had not recently sold anything to, how would you personally ascertain what price he was then paying for corrugated shipping containers?

A. We would first find out if the salesman knew what was going on. Many times he doesn't.

Q. Were there occasions when you did anything else to ascertain what that price was, you personally?

A. Yes.

Q. What did you do?

A. I have asked other suppliers, if I knew the supplier. I have asked them what they had sold them at.

FOR DEFENDANTS:

Q. That is what I wanted to clarify. I understood you before to say with regard to Thomasville Furniture Company that there are occasions when your salesman goes in and goes over the specifics and spends a lot of time designing a new box for a new suite, is that correct?

A. Thomasville Furniture is one where—we have been supplying them.

Q. Yes. Would Thomasville Furniture Company, the [Tr. A-166] nature of its requirement or the size of the box or the specifications of the box, vary from time to time, isn't that correct?

A. Yes, sir.

Q. Once the specification is set, as a general rule, does that continue for a period of time or length of time?

A. Until they change that suite.

Q. Has it been your experience that it generally continues?

A. For several months.

Q. What other industries do you supply within your area of jurisdiction?

A. All the industries that ship, just about everything in the area.

Q. With respect to those other industries, which is the general practice? Do they generally retain their specifications for a given period of time like the textiles, or do they change every several months like the furniture?

A. I would say it is more like the textile.

FOR PLAINTIFF:

Q. Now on those occasions when you have asked a supplier for information concerning a customer from whom you have received an inquiry, can you describe to us how that [Tr. A-167] would take place, how that would occur?

A. How what would?

Q. How you would obtain this information?

A. I would ask him verbally.

Q. In a personal visit?

A. Personally or by telephone.

Q. On the occasions when it was telephone, did this include long-distance calls?

A. Yes, sir.

• • • • •

[Tr. A-169] A. If during this period of time that we are talking about, 1955 up to date, I guess.

Q. That is correct.

A. Whether during that time there is anyone on this list I have not talked to about what they have charged to somebody?

Q. That is correct.

A. I don't believe that there is anybody on there that I have not.

• • • • •

Q. Does your company now maintain a specific policy with respect to requesting information from competitors concerning prices for corrugated shipping containers sold to specific companies?

A. Yes, sir.

Q. What is that policy?

A. No conversation.

Q. How long has this policy been in effect?

A. Since January, 1963.

Q. And prior thereto, did your company maintain a policy with regard to the same subject?

A. Yes, sir.

Q. And what was that policy?

A. Any conversations regarding what people had charged for corrugated boxes, what competitors had charged for [Tr. A-170] corrugated boxes, was limited to the division manager level.

Q. And the division manager level was the level in which you served during what period of time?

A. 1958—no, excuse me, 1961 until the present.

Q. Had there been a policy enunciated by your company earlier that permitted an exchange, a request for information at a lower level than the division manager level?

A. I don't recall that it was ever enunciated but it was practiced.

Q. What was the practice?

A. A sales manager and general manager level.

Q. Could do what?

A. Could talk to, could ask competitors what they had charged for corrugated boxes.

Q. To specific customers; is that correct, sir?

A. Yes, sir.

Q. When did that practice change? That is, when the division manager was the lowest echelon that was permitted to request information from the competitors as you have just described.

A. Sometime in 1961.

Q. Prior to 1961, from 1955 through 1961, would you please give us some idea of the frequency with which you requested, you personally, requested this information from competitors?

[Tr. A-171] Mr. Manning: Prior to 1961?

Mr. Bernstein: That is correct.

The Witness: Well, from 1955 until 1961, I did not have any activity at all. Prior to 1958, that was when I was Production and Purchasing Manager, prior to 1958 I did it occasionally.

By Mr. Bernstein:

Q. Can you give us some idea of the frequency with regard to a day or week or month?

A. That varied so much at times, it was different than others. It varied a great deal.

Q. What was the experience, the limits, sometimes several, sometimes none? Were there occasions when this would occur on consecutive days?

A. Possibly, yes, sir.

Q. Were there occasions when this would occur to more than one competitor with regard to the same customer or the same inquiry?

A. That is possible, yes, sir.

Q. During the period from 1955 to 1958, do you know, of your own knowledge, whether any of your subordinates requested this information from competitors?

A. Yes, sir.

Q. What do you know?

A. I know they did.

[Tr. A-172] Q. Do you know with what frequency it was done?

A. About the same as I described previously.

Q. Was it the general rule that this involved calls out of town that the plant was in or was this limited to the town where the plant was located?

A. It was out of town. We don't have any competitors located in towns where our plants are. Except in Chattanooga.

Q. During the period from '61 to January 1, 1963, did you engage in obtaining this information from competitors?

A. Yes, sir.

Q. And did this relate to specific customers?

A. Only to specific customers.

Q. During this period of time, from '61 to January 1, 1963, did you give to any competitor information concerning a price that your company was charging a specific customer for a corrugated shipping container?

A. Yes, sir.

Q. Did that relate to the Fernandina, Florida, plant, for example?

A. On occasion; yes, sir.

Q. How would you ascertain the information relating to the customer in the Fernandina plant?

A. I would get in touch with our Fernandina plant.

Q. Did you keep any central list of all of the [Tr. A-173] customers or was it necessary in all of your plants, at your Winston-Salem headquarters, or was it necessary to obtain the information from the plant involved?

A. I had a central list of all plants, of all customers.

Q. What information did you have concerning that central list?

A. It is one that we get regularly through our Tabulating Department. It is a list of accounts we have sold, and it includes on there what we have sold, that is, the amount we have sold; and it also has the price that it is, that it was sold at, in terms of our own pricing formula. I had, in addition to that supplied by the different plants, a level which is on other than our own formula, so-called price list.

Q. Now, I would like to clarify—strike that.

I would like to get a further explanation of your answer before, that you were obliged to call the Fernandina plant for the information concerning a specific customer.

Would you please explain why this was necessary, with that list that you had?

A. That was sort of—I just didn't remember it.

Q. Do you want to clarify your answer or change it or explain it further?

A. It wasn't necessary if I had that information on this list. It was not necessary.

Q. And is it your general practice that the information [Tr. A-174] is on the list?

A. I think that I can clarify the whole thing for you.

Q. Would you, please?

A. That for a short period of time I didn't have the central list, and I found that it was an impractical thing to have to phone the plant each time something came up. It took too much time. There were too many calls. So then I devised this central list.

That, I think, clarifies it.

Q. Now, would you please describe, if you can, how that manual differed from your own company's manual?

A. It differs radically but it is much more simplified.

Q. For example, are you able to determine the square

footage in the blank from the manual, from the Inland manual?

A. Not for manufacturing purposes, no.

Q. But for quoting purposes, are you?

A. Yes, sir.

[Tr. A-175] Q. During 1961 to 1963 can you tell us whether or not you exchanged information concerning the prices charged a specific customer with John E. Butler of Union Bag-Camp Company?

A. I am sure I must have, but I don't remember specifically.

Q. Do you remember with whom you exchanged that information in behalf of Inland Container Corporation?

Mr. Manning: By "exchange" do you mean that he either gave or was given?

By Mr. Bernstein:

Q. Gave or was given information concerning a price [Tr. A-176] charged a specific customer?

A. In the general sense of people in the Inland Container Company that I have talked to about such things?

Q. That is correct. In your capacity as Division Manager.

A. Frank Talbott, Barney Roberts, Ted Davis.

Q. Do you know him as Charles Davis?

A. I don't.

Q. You don't know Charles Davis?

A. I don't know Charles Davis. Ted Davis, I say.

Q. You have mentioned several individuals from Inland. Will you describe the different circumstances in which you talked to the different individuals?

A. I don't know the circumstances I talked to either one of them. I just said I am sure I must have talked to them. I know those guys.

Q. I am talking about the telephone calls concerning a price charged a specific customer.

A. I can identify to this extent, Ted Davis is in one plant and Talbott is in another, Roberts and Talbott, they are in different locations.

Q. Were there occasions when they would initiate the call to you?

A. I am sure they did, yes.

.

[Tr. A-177] A. Prior to 1961 I was in another capacity. That is from 1958 to 1961 I was production and purchasing.

Q. To your knowledge were any instructions given to competitors to direct requests for inquiries to the division manager rather than the lower level when the policy of your company changed?

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Q. With respect to International Paper Company, can you identify the individuals from that company with whom you gave or received information concerning prices charged specific customers for corrugated shipping containers from 1961 to 1963?

A. Here again this is completely general, because I have no specific in mind. Hugh Reid, Spike Ennis. I don't know what Spike's name is.

Q. And the same question with regard to Owens-Illinois.

A. A man named Brittain, Rosenbaum.

Q. Is that Ken Rosenbaum?

A. Ken Rosenbaum. And Tom Cox.

Q. And the same question with respect to Crown Zellerbach.

A. Joe Tarantina and Lee Ross.

.

[Tr. A-178] Q. Is it also your testimony that during 1961 and 1963 you either gave or received information concerning a price charged a specific customer for corrugated boxes, is that correct?

A. Yes, sir.

Q. And that is true with respect to telephone conversations?

A. Yes, sir.

Q. For the record, who, with respect to Tri-State Container?

A. Alan McDonald.

Q. And with respect to Carolina Container?

A. C. T. Ingram, or Carter Holbrook.

Q. And West Virginia?

A. Allen Holt.

Q. With respect to Weyerhaeuser?

A. What dates are we on?

Q. 1961 to 1963.

A. Ivan Wood and George Elliott, I think.

Q. And with respect to Continental Can?

A. Bob Groner.

Q. And with respect to Miller?

A. Harold Kyle and a boy named Noftsinger.

Q. Albemarle?

[Tr. A-179] A. With Albemarle, Tony Bagley.

Q. And Dixie Container Corporation?

A. Herb Mitchell and Joe Schwind.

Q. And The Mead Corporation?

A. From 1961 to 1963, Bob Horner.

No, excuse me. It was Jack Burham. I expect I am getting a little tired and forgetting some of these boys now. Bob Wainscott.

Q. Owens-Illinois?

A. I thought we had already done that one.

Q. Yes, we have. St. Joe?

A. I am getting pretty tired, and I have forgotten this fellow's name.

Q. And St. Regis?

A. Bill Diggs, and there is another man, Pete Petree.

Q. Now, this information that you received from these individuals as you have described, did that information assist you in any way?

A. Yes.

Q. In what way?

A. It gave me an idea of what had been going on in these accounts that we talked about, whether there was a profitable or unprofitable account, whether it was interesting or disinteresting.

[Tr. A-180] Q. What, if anything, would you do in comparing or contrasting the information that you received

from one of these competitors with the information that you had on your list concerning your company's cost to that specific customer?

A. We would just compare it. We would run down, generally speaking, we would run down the price which they said they had charged. We would run that down on our corporate costing thing to see—that would be the way we would determine whether it was an interesting price or not.

Q. Who would make the decision?

A. That decision is generally at the plant level.

Q. Did you communicate the information you received to the Sales Manager of the specific plant?

A. Always.

Q. Did you at the same time communicate any advice or instructions to him regarding the price to be charged?

A. Not generally.

Q. Can you tell us what kinds of occasions when you would be consulted concerning the price to be charged after having transmitted this information?

A. Did I say that I had been consulted? I don't know whether I have.

Q. I asked you, were you?

A. Not necessarily.

Q. Do you recall whether there were occasions when you [Tr. A-181] were consulted?

A. I am sure there must have been.

Q. What kinds of occasions were those? What type of situations would be presented to you?

A. Well, it could be maybe our Sales Manager and our General Manager of a plant thought that maybe this was a little too low for us and they would want to talk about it, whether we would let that volume go or take it at such a low price.

Q. Do you recall whether there were any occasions when the examination would disclose that the business was very profitable, very desirable at that level?

A. Oh, sure. Well, "very" is a big word. I am sure that there have been times when we would have been happy to have business if we could get it at prices that had been charged.

Q. On some of those occasions, were there occasions

when you would have been happy to have the business at even a slightly lower level, comparing your own costs?

A. Maybe.

[Tr. A-182] Q. Now do you recall a general increase in price by your company to its customers for corrugated containers in the Southeastern area around March of 1962?

A. I remember an effort to increase price, yes, sir.

Q. Did your company adopt any policy with regard to attempting to increase price?

A. We were vigorous in our efforts to increase the prices.

Q. How did that manifest itself?

A. I don't understand—

Q. How did you attempt to do this?

A. Raised them.

Q. Did you raise them by any specific across the board amount?

A. Yes, I think at that time there was some material increase and we tried to recover the increase in materials [Tr. A-183] plus two or three percent.

Q. Was there a percentage figure that you attempted to apply to all levels of all customers to accomplish this increase?

A. No, sir.

Q. How did you attempt to do it?

A. All customers weren't on the same level to begin with and depending on where they were that would determine how much of an increase we tried to obtain.

Q. Were there any limits? Can you give us a figure that you were shooting for?

A. I said we wanted to get the board back. I think what we were shooting for was a couple percent more than the board. As I recall it the board was around three percent. I imagine around five was what we were shooting for. I think that is what it was.

Q. This would vary, depending on the level at which the customers were?

A. Very much.

Q. To what degree would it vary?

A. I don't know.

I think probably twenty percent.

Q. Some increases were as high as twenty percent?

A. I think we attempted to get some that high, I believe so. As I say, I don't recall.

.

[Tr. A-184] Q. I am trying to ascertain the mechanics of how your company attempted to get all of your customers priced up to a level that would give your company a return of the board increase plus additional percentage?

A. Mr. Bernstein, I don't think there was such a thing as getting all of them to a level, not in my experience.

Q. Did you have a level you were shooting for?

A. In March of 1963 I told you we tried to get the increase in materials, our basic materials. We tried to get that. And we wanted to get about two percent more than that.

I think that that is what our program was in 1962, I think so.

Q. You said 1963 before. When you said 1963 you meant March of 1962?

A. 1962. It was surrounded by a materials increase.

Q. Is it correct then, Mr. Colvin, to say that you took the cost of the board plus the increase in the price in 1962 plus a few percentage points and you established that as the level that — desired to attain for all of these customers?

A. I say again that we don't have a level for all customers. I don't know of any.

Q. I know that.

A. You have got customers all over the lot, sir?

[Tr. A-185] Q. Right. But you take each one of your customers and you compute the average, your experience from sales you made to that customer and then you determine a level. Is that level in terms of a two hundred pound test carton or what does that level relate to?

A. I don't understand what you are driving at.

Q. All right, let me try it this way. In the exchange of information that you received from 1961 to 1963 from a competitor concerning a price that was charged to the customer, that information was given to you in terms of the Inland manual?

A. Right.

Q. Was that given to you in terms of any particular test weight, like 200 pounds, or was that related to something else?

A. It is always, I don't think I have ever had them except in terms of a 200 pound test.

Q. Would you please explain to us what the intra-company level for a specific customer related to? Did that relate to a particular test weight carton or was it all test weight cartons or how did you set it forth so that it applied to the variety of use?

A. The intra-company, referring to my own company, I can't see what you are driving at. If I did I would try [Tr. A-186] to help you but I don't know.

There are various differences in accounts. I don't know of any time in my experience that I have seen all accounts at the same level.

I just haven't seen any.

Q. No, I understand that, but let's—let us take a specific account, and that account may use a 200 test carton and it may use a carton of another test weight, isn't that correct, sir?

A. That is right, sir.

Q. Do you for your own company purposes, in determining the cost, do you set down a level for each weight or do you just use one level?

A. No, sir, it might be on each box. I think I see what you are shooting at. The reference to the Inland manual is what you are talking about, I think.

Mr. Manning: Why don't you ask another question?

Mr. Bernstein: I am not referring to the Inland manual. I am referring to the information that you have in your office in Winston-Salem that lists each customer and alongside of it the level that—the level indicated—indicating the cost to the Container Corporation of the cartons that are being sold to that individual. Now I am just referring to that.

A. All right.

[Tr. A-187] Q. Now, a specific account may use a variety of shipping containers, and may use different test weights. 200 and so on?

A. That is right.

Q. Does your information list the level for each of these weights or does it just use one?

A. Just one.

Q. Is that for the 200 test?

A. No, that is the average that we have sold that account. You wouldn't understand it if I told you, but it would be a figure which we have got our conversion costs and if it is a profit in it, it would be a percentage of those conversion costs. If I said, "Plus 100", that wouldn't mean anything to you, but it does mean something to me.

Q. Now during this same period of time, and I am talking about March, 1962, or immediately prior to the increase, when you would give information to a competitor, you would give it in terms of the Inland manual, is that correct?

A. Yes, sir.

Q. And how about immediately after March 1962, when you attempted to raise these levels? Did you give the price and the terms of the Inland Manual plus an increase?

A. No, sir.

[Tr. A-188] Q. How did you give it?

A. Just give them a board factor, or a multiplier or a level that we had sold them at.

Q. In terms of the Inland Manual?

A. That is right, sir.

Q. Now, do you recall the increase in the fall of 1961 about September of 1961? Was there an increase?

A. Yes, sir, I recall that.

[Tr. A-189] Q. Do you have personal knowledge of any occasions when information that you furnished to a competitor concerning a specific account, that competitor quoted a price lower than your company was then charging the customer?

A. I am sure it has occurred. I don't know where, but I know it has occurred.

Q. Can you recall an instance?

A. I wish I could. We have lost business during this [Tr. A-190] period where information regarding what we charged had been sought. Oh, yes, more than one, but I

don't remember them all. But I remember one was General Electric.

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Q. Do you recall or do you have personal knowledge of any occasions when your company received information from a [Tr. A-191] competitor concerning a board level charged a specific customer, and cut the price?

A. Yes, I think we did.

Q. Was this frequent?

A. No, sir.

Q. Did your company have a policy with regard to quotations made on the basis of information received from competitors concerning a quotation to a specific customer?

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The Witness: If we did, I never heard it enunciated.

By Mr. Bernstein:

Q. Did you have a policy yourself with regard to that?

A. Yes, sir.

Q. What was that policy?

A. My policy was not to generally, or not to cut a price that had been given to me.

Q. And what were the factors that you considered in reaching that policy?

A. I think that I was born that way.

Q. Were there any occasions during the period from 1955 through 1963, when you determined to obtain a specific account by quoting a lower price than a competitor?

A. Yes, sir.

Q. Were those frequent or infrequent?

A. I guess you would say they were infrequent, but we [Tr. A-192] have, it depended on what was going on.

Q. Now, can you think of one of these occasions and tell me whether or not on that occasion you sought information from a competitor before quoting your lower price?

A. I can't think of a one.

Q. You can't think of one of those instances?

A. Where I sought information on what had been done, and then quoted a lower price, I cannot.

Q. Now, can you think of an instance when you deliberately quoted a price that you thought would be lower than a competitor but did not first seek the information from the competitor?

A. Yes, but I don't know. I have done it many times, many times, yes.

Q. Can you give us an instance of that?

A. I can think of some customers that we have picked up. Well, it suffices to say we have done it. I can't remember one.

Q. Well, I am trying to establish if this be the fact, and I am only trying to establish it if it is a fact, that on the occasion you determined that you were going to be the low supplier, or low priced man for that customer, when you had reached that determination, you didn't seek the information from your competitor. Is that the fact?

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[Tr. A-193] Q. Do you recall whether or not you personally adopted that policy?

The Witness: Whether or not I personally adopted it?

By Mr. Bernstein:

Q. That is whether you maintained the policy of not seeking information from a competitor concerning a price charged if you had made your own determination that you were going to be the low priced man for that account.

A. I don't remember making such a policy, but I think that is pretty much the policy that I have followed.

Q. From you, from your company? In other words, when a competitor opened up another plant somewhere in the Southeastern region, did that have any effect or did that coincide with any increase or decrease in phone calls to you?

A. No.

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[Tr. A-129]

Monday, March 2, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendants: Each of the Defendants was represented by one or more counsel as appears of record, with the exceptions as stated by Mr. McNeill Smith.

DEPOSITION OF ADOLPHUS SIDNEY CLAY

(PX-9)

[Tr. A-130] Q. Mr. Clay, will you please state your full name, residence address and business address for the record?

A. Adolphus Sidney Clay, 715 Barnsdale Road; business address, 24th Street, Winston-Salem, North Carolina.

Q. You reside in Winston-Salem?

A. That is right.

Q. What is your position with the defendant, Container Corporation of America?

A. Sales Manager.

Q. For what area, Mr. Clay?

A. For the area served by the plant located in Winston-Salem, North Carolina.

Q. How long have you served the company in this capacity?

A. Since January 1, 1958.

Q. Would you please tell us, Mr. Clay, how long you have been in the business of manufacturing and selling corrugated containers?

A. Since November 1, 1949.

Q. How long have you been continuously associated with the Container Corporation of America or its predecessor, [Tr. A-131] Mengel Company?

A. Since I believe 1952.

Q. Prior to 1958 in what capacities did you serve the Container Corporation or its predecessor?

A. As salesman.

Q. And in connection with what plant?

A. The Winston-Salem plant.

Q. Was there a period of time when you either gave or received from a competitor information concerning prices charged a specific customer for corrugated shipping containers?

A. Yes, sir.

Q. What was that period?

A. From January 1, 1958 until sometime in 1961.

Q. What, if anything, can you tell us about the frequency with which you gave or received this information during that period of time?

A. You mean the number of calls a day?

Q. That is right, sir.

A. I don't recall the maximum nor the minimum. I am certain there were some days when I received no calls or made no calls.

Q. Were there other occasions when you received or made calls almost daily during the week?

A. I imagine there were, sir. It has been several years. [Tr. A-132] I don't remember sharply.

Q. Was there a general practice or procedure that you personally employed when you received this information concerning a determination as to a price to be charged a specific customer?

A. Meaning in receiving or giving information?

Q. Let us take receiving.

A. It became one of the considerations, it became market information along with my other market information.

Q. Can you now recall a specific instance that we could use for an example of when you received information from a competitor as to a board level and what you did with it?

A. Yes, sir.

Q. Would you tell us about it, please?

A. Well, I can't recall, Mr. Bernstein, a definite conversation with a definite competitor. It has been two and a half years since I was on the telephone. I do know that there were many occasions when I sought past market information and I took that into consideration, but if you're asking me do I recall a specific conversation, no, sir.

Q. Well, I am trying to ascertain the mechanics by which this information was used by you if you can do it in general terms, I would like it and if not give it in specific instances.

[Tr. A-133] A. On receipt of such information, if this were given in level form, I would figure a price as it would apply to a specific customer's requirements, determine what that price was, and then analyze that price to see whether it would be profitable or not and how profitable it would be. That along with my other market information as received through my sales calls or my own calls, would help me determine what price I would charge that customer or quote that customer.

Q. Now in ascertaining the other market information, what if anything were you doing with respect to the information—strike that. You said other market information. Would you explain that in more detail, specifically with reference to the information you furnished—furnished you by your salesmen?

A. Well, the salesman would determine the specifications, and would determine the frequency of delivery. He would determine the servicing that the account would require. In quite a few instances he could determine the price that had been charged the customer by various competitors.

Q. How would he do that?

A. Asking the purchasing agent.

[Tr. A-134] Q. Yes.

A. He would get that to determine what printing dies had to be bought and these things all go into the make-up or have gone into the make-up of my decisions relating to pricing.

Q. And was there any other information that you needed before you would make your decision as to a price to be quoted for that specific account?

A. Any other than what, Mr. Bernstein?

Q. Other than the things you have just mentioned, that is the quantity, and the frequency.

A. Many other things.

Q. What other things?

A. Well, for instance, what times of the day could the customer take delivery, and what days of the week could he take delivery, and what type of preparation for shipment, how the shipment could be prepared for the customer's warehousing and unloading, how often the customer would require samples, and how often the salesman would have to call.

Q. And did you, or was any of that information—strike that. Was that information in addition to the information that you would receive from your intra-company manual concerning the cost of the manufacture of that box?

A. Yes, sir. The intra-company manual has allowances for most of these operations, but not all. For instance, [Tr. A-135] frequency of delivery, specific delivery dates and times are not covered in the company manual at all.

Q. Now, was there any other information that you had to obtain before you were in a position to make your decision concerning the price to be quoted?

A. Information other than what I have testified to here, you mean?

Q. Yes, sir.

A. Yes, sir, I am certain that there was other information. The very nature of the box user himself, the nature of the business that he is in is part of the determination of pricing. Some industry demands more of a corrugated manufacturer than another industry might.

Q. Now, did you seek any information concerning the price that the customer was then paying for his boxes other than from your salesman, or from your competitor?

A. Those were the two sources of market pricing information from the purchasing agent through my salesman or directly to me or from the competitor directly to me.

Q. Now, I invite your attention to the complaint filed in this action and ask you to examine the names of the defendants listed thereon and ask you to indicate whether there are any defendants listed thereon with whom you did not exchange this pricing information for specific customers of the Winston-Salem plant during the period from January 1, 1958 [Tr. A-136] to 1961.

Mr. Manning: Again by "Exchange", you mean either

gave past information or had gotten it?

Mr. Bernstein: That is correct.

The Witness: I do not recall having sought market information from St. Joe Paper Company. That is St. Joe Paper Company.

Mr. Sapp: What was the definition of exchange that you gave, Mr. Manning, the limitations upon exchange? That is the use of exchange.

Mr. Bernstein: Would you read back Mr. Manning's clarification of the question?

Mr. Manning: To save time, I think that I said by exchange, it was understood that he meant that the witness had either given past market information or received past market information from a competitor.

By Mr. Bernstein:

Q. Now, with respect to St. Joe Paper Company, do you recall ever giving St. Joe Paper Company information concerning a price charged a competitor?

A. No, sir, I do not recall.

Q. Do you recall receiving any information from the St. Joe Paper Company?

A. No, sir, I do not recall that.

[Tr. A-137] Q. Now, upon receipt of this information and considering the factors that you have testified to in this deposition, what, if anything, would you do with regard to the actual price that you made to the customer?

A. I might determine not to quote at all. I might quote the same price as had been charged by my competitor. I might quote higher than the price reported to me by the competitor, and I have quoted lower than the price given me by my competitor.

Q. Now, can you recall any specific occasions during the period from 1958 to 1961 when you quoted a price lower than the competitor after having received the market information from him?

A. Yes, sir.

Q. What was that occasion?

A. Among others, I can recall having received market

information on Futorian-Stratford Furniture, Rocky Mount, North Carolina, and then having quoted lower than those prices.

Q. Were there circumstances that led you to take that action with regard to the furniture company?

[Tr. A-138] A. It was a marketing decision by me.

Q. And what factors did you take into consideration in making that decision other than what you have mentioned before? What led you to the ultimate conclusion to quote a price lower than your competitor?

A. Having analyzed the price or prices that were given to me by relating them to our corporate cost system, I determined that we could charge less and still have a comfortable profit, and I made the decision that the prices that were given to me were unrealistic in the face of competitive realities.

Q. Who was the competitor that gave you the quotation at that time?

A. Continental Can Company.

Q. What action, if any, did you take with regard to Continental Can after you made that decision?

A. What action did I take, Mr. Bernstein? None, sir.

Q. Did you advise Continental Can of your action?

A. Subsequent to my having quoted the lower price I was asked by Continental Can what my prices were.

Q. And what did you tell them?

A. I told them what my prices were.

Q. The actual prices?

A. Yes, sir.

Q. Did you get into any discussion with them concerning [Tr. A-139] the reasons why you quoted lower?

A. Yes, sir.

Q. What was that discussion?

A. I told them that I thought the prices were not realistic in view of the nature of the competition in this area.

Q. What, if anything, did they say in response?

A. Well, one gentleman threatened to punch me in the nose. He thought it was pretty rough.

Q. Who was that gentleman?

A. I have forgotten his name. As a matter of fact, I can't recall what his name was.

Q. Did you subsequently have occasion to request information from that same individual?

A. Not from him but from others in the same company.

Q. And you got the information?

A. Yes, sir.

Q. Did that individual, the one who threatened you with an assault, did that individual ever have any occasion to ask you for information thereafter?

A. No, sir. But others in his company did.

Q. And they were given the information?

A. Yes, sir.

Q. Can you recall any other occasions when you [Tr. A-140] received a quotation from a competitor and then quoted a lower price?

A. Yes, sir.

Q. Will you tell us about that?

A. I received past market information on Carolina Mills, in Maiden, North Carolina and subsequently quoted a lower price.

Q. When was that, approximately?

A. Sometime in 1961, I believe.

Q. The Stafford Furniture incident occurred when?

A. In 1960 or 1961.

Q. And with respect to Carolina Mills, what were the circumstances there that led you to quote a lower price?

A. The business had been taken away from us on price.

Q. By whom?

A. The preceding order had gone to Carolina Container.

Q. Prior to the preceding order, had you given Carolina Container information concerning the price you were quoting that customer?

A. I do not recall whether I had or not.

Q. Did you request information from Carolina Container before submitting your quote to Carolina Mills?

A. Did I request information? I asked them for the prices that they had charged Carolina Mills.

Q. When you learned of their price you quoted lower than their price; is that correct?

[Tr. A-141] A. Yes, sir.

Q. What, if anything, resulted from that?

A. I didn't quote low enough, I didn't get the order.

Q. Would you say it was the rule or the exception to the rule that you would quote lower than the price quoted by your competitor when you received the information?

The Witness: I didn't have a rule. I made the determination, myself.

[Tr. A-142] Q. When you give consideration now to the number of occasions when you received information from a competitor, the number of occasions when you quoted a price lower than your competitor, what, if anything, can you tell us about whether it was the general practice not to quote lower or to quote lower?

The Witness: I had no general practice. If you are asking which I did more frequently, I am certain that it was more infrequent that I quoted lower.

By Mr. Bernstein:

Q. When you requested information from a competitor during the period from 1958 up to 1961 regarding a price charged a specific customer, was there a practice concerning the form in which this information was exchanged and received?

A. Most of the time it was in the form of a level.

Q. Can you describe in general terms what you would generally ask, how you would ask the question? Would you have to give them the size of the box? What information would you have to give a competitor in order to receive the information you sought?

A. You would say, "What has been your level on such and such a box with such and such an account?"

Q. And how would that be relayed to you?
[Tr. A-143] A. He would then give me the level or multiplier.

Q. He would just use a figure or would he say something that would clarify the figure? Did you need any clarification to the figure?

A. He would just give a figure, at times specific prices, but generally, a figure.

Q. Now, when he gave you a specific price what, if anything, would you have to do with it to determine the board level?

A. Well, if the price were given to us by the customer, by the purchasing account, an end price, or by a competitor, we could take that price and analyze it either on the published list or on your own corporate pricing system.

Q. Now, when you say analyze it on the published list, could you be a little bit more specific, to what do you refer?

A. The Inland Manual or list.

Q. That was from the period January 1, 1958 to January, 1961?

A. I am not quite certain when the Inland Manual came into existence.

Q. Do you recall what manual immediately preceded the Inland Manual by your company?

A. To the best of my recollection, it was the Old Dominion Manual.

[Tr. A-144] Q. To the best of your knowledge the companies from whom you received the information and to whom you gave the information related the board level price either to the Inland Manual when that was in existence or the Old Dominion Manual before that?

A. That is correct, sir.

Q. Were you able with that board level price to determine the price charged that customer for a specific shipping container regardless of the dimensions?

A. Generally speaking.

The Witness: I could not determine what our competitor had done. I determined how I would take a certain set of specifications and a certain multiplier and convert this into a price.

Q. No. I am asking whether you would be interested before making a quote as to what price your competitor was charging that customer for the box he was then using?

A. Well, the theoretical case you have put up is the [Tr. A-145] furniture industry, and their sizes vary fractionally in inches twice a year, let us say. It might go from 62 inches to 62½ or 63 inches. Minute variations, but variations nevertheless. And his past market information would be of value to me in helping to analyze the account itself.

Q. Now would you be interested in ascertaining what price the existing supplier would quote for the newly specified box? Would you be interested in that information in arriving at your decision?

Q. Were there any instances when that occurred?

A. I do not recall such instances.

[Tr. A-146] Q. Returning again to those situations between [Tr. A-147] January 1, 1958 and 1961 when you received information from a competitor concerning a price charged a specific customer, you would take that information and compare it to your cost for manufacturing that box, is that correct, sir?

A. That was part of the study I was making, that is correct, sir.

Q. Then you gave consideration to the other factors that you enumerated this morning?

A. That is right.

Q. Then you would reach a decision as to whether your company desired to submit a quotation for that business and, if so, at what price it would submit it, is that correct?

A. That is correct.

Q. Did you personally adopt any principle or policy with regard to submitting a quotation to a customer lower than that which you received from a competitor?

The Witness: No, sir, I had no such set policy. In mak-

ing prices then, as now, I attempt to get as much as I can within reason. It behooves me to make a profit. I attempt to determine my pricing with that in mind.

By Mr. Bernstein:

Q. Did you give any consideration to whether or not you had an obligation with regard to a competitor who [Tr. A-148] furnished such information to you?

The Witness: No obligation was ever told me or expressed to me in any way that I can recall.

By Mr. Bernstein:

Q. Did you expect any obligation on the part of someone to whom you furnished information concerning a price that you quoted a competitor?

The Witness: I didn't expect one way or the other. I hoped that he would quote much higher than I would. This very seldom happened.

[Tr. A-149] Q. Do you recall who was there or representatives of what companies were there?

A. I recall Mr. Alan McDonald being there, from Tri-State Container, Mr. Ken Rosenbaum from Owens-Illinois, Mr. J. D. Evans and myself from Container Corporation, and I believe Mr. Ennis from International Paper Company.

Q. Do you recall the circumstances under which you all found yourselves together in that hotel? Had this all come up spontaneously, or was it pre-arranged, pre-arrangement?

The Witness: I don't recall how we came to meet, Mr. Bernstein.

[Tr. A-151] Q. Prior to 1963, you did not rely entirely on the information furnished by the customer, is that correct?

A. That is correct, sir.

Q. Why was that?

A. Well, at times you felt that the customer may not be giving you accurate information. At times the customer would give you no information.

Q. And on those occasions, what information did you consider?

A. Information or prices or price levels that had been charged by the competition in the account involved.

Q. But you said before that it did not assist you?

A. What did not assist me?

Q. That information that you received.

A. No, sir, I said I did not get assistance in comparing my own marketing information from my customer, with that received from a competitor.

.

Q. Well, I am trying to ascertain what the facts are and so I will ask you this question: Was it of any help to you [Tr. A-152] personally in reaching a determination of quoting a price to have information from the competitor in those instances where you could not get it from the customer?

A. Yes, sir. I think that the prices that had been charged by a competitor were an estimate of what value he put on the account. In other words, if he had charged a very profitable price, it was an estimate in my mind, by that competitor, that that account or the cost of handling that account was that high. It was an estimate of the worth of the account to him.

Q. That is, if there was a little profit margin; is that correct, sir?

A. I am speaking of the cost-price ratio, Mr. Bernstein. If an account were very troublesome, the price would be likely to be much higher than if the account were not troublesome.

Q. Mr. Clay, inviting your attention to your previous testimony concerning the Stratford Furniture account, when Continental's information to you led you to conclude that the price was unrealistic and too high, what, if any,

consideration did you give to Continental's evaluation of that account?

A. I gave no consideration to what their evaluation was, as Futorian Stratford is an upholstered furniture manufacturer, and there are many in the area, and our experience with similar upholstered furniture manufacturers was what I relied on as [Tr. A-153] far as the difficulty of handling this account went.

Q. So that in addition to information concerning a competitor's evaluation of the troublesomeness of an account, what other information do you receive or what other value is the information to you when a competitor gave you the information as to what board level he was charging that customer?

A. In an attempt to sell profitably and to make my pricing determinations to arrive at a profit, I like to get as high a price as possible. We have never thought that we had to buy accounts. We are one of the older, established plants in the area and have always felt that we didn't have to quote low prices to get our accounts.

Q. Is it true, therefore, that you found some value in ascertaining what that customer was then paying to a competitor for his account?

A. Market information was of value regardless of whether it was gotten from the customer or from the competitor. It was of value.

Q. Now, do you recall, referring now to the Drexel Furniture meeting, do you recall whether you submitted a quotation to Drexel Furniture Company for a newly specified box?

A. I don't recall.

Mr. Manning: You mean before or after the meeting?

[Tr. A-154] By Mr. Bernstein:

Q. Immediately prior to the meeting.

A. I don't recall submitting an exact price on a specific specification.

Q. Well, were you concerned about the prices being charged Drexel Furniture by your competitor at or about the time of that meeting, your competitors?

A. It concerned me to the extent we were losing most of our business.

Q. Had you received information from your competitors as to what they were charging Drexel Furniture, or the board level?

A. I had sought and received such information.

Q. Had you reached any conclusions concerning the reliability of that information?

A. I had, Mr. Bernstein.

Q. What conclusions did you reach?

A. I had received information from the buyer and I chose to believe the information that the buyer gave me, which I found at variance with what the competitors had given me.

Q. At the meeting that you referred to before, at the Barringer Hotel, did you attempt to obtain any information from your competitors concerning that account?

A. I believe I asked the various competitors if they [Tr. A-155] had recently changed their pricing-levels downward in the account.

Q. What response did you get?

A. Mr. Alan McDonald of Tri-State replied that he had decreased his prices roughly three percent.

Q. What, if anything, did you do thereafter with regard to Drexel Furniture account?

A. I reduced my prices five percent.

Q. Did you advise anyone present on that occasion in the Barringer Hotel that you proposed to reduce your prices further?

A. I did not say that I was going to reduce my prices.

Q. What did you say?

A. I don't recall the specific words, Mr. Bernstein. I believe I expressed my intention to place our prices in a competitive position with the account based on information given me by the buyer.

[Tr. A-158] Mr. Manning: Again, by that you mean that he either gave it to them or received it from them?

Mr. Bernstein: That is right.

to Dixie Container Corporation of North Carolina, I will say Dixie-Morganton.

A. That will suffice.

[Tr. A-460] FOR PLAINTIFF:

Q. Now, with respect to the responsibility for determining prices to be charged specific customers for corrugated shipping containers by Dixie Richmond during the period while you were President, who had responsibility for that?

A. According to my stockholders, the responsibility rested on me.

[Tr. A-461] A. Within reason.

To digress for just a second, we are a real small company with eight or ten people in the office, whereas some of our competitors running into the same volume as we do have 60 people in the office. I don't know what in the hell they do but they have them. So, it is more or less like a family thing for us.

You can yell across and tell them to do something. You don't have to go through all these damn memorandums and committees. Because of that, all of them do about what they please. Now, we have a cost system. We know what it costs us to deliver corrugated boxes and average freight rate, an average commission. Everything based on the average. We don't have enough people to pinpoint any particular item, whether we made a profit on this item or whether we didn't make a profit. We wait until the end of the year to find that out.

We know what it cost us to do this. It is pretty close to one of these so-called manuals. If we are pricing boxes. If it is the manual price or over, I am not consulted. If it gets 25 percent off, which many of them are today, then I am consulted, are we going to do this or not? Then I make an executive decision. I have a little thing on my desk and I spin it and whatever the answer that comes off that is what we do.

[Tr. A-462] Q. Are all of these eight or ten people you refer to all-salesmen?

A. Office personnel.

Q. How many people do you have actually out soliciting business and calling on customers?

A. In Richmond?

Q. All right, let us take Richmond.

A. We have the sales manager who spends some time out.

Q. Who is that?

A. Ernie Downes. We have two city salesmen who also work out of town sometimes.

Q. That comprises the entire sales force of Dixie-Richmond?

A. No, sir. That comprises the entire sales force of the City of Richmond.

Q. How about the remainder of Dixie-Richmond's business?

A. Again, I will have to digress a moment. We are unlike many box plants. Most box plants will hire a man in training. My philosophy is that I don't give a damn what you know, all I want to know is who you know. By adopting that policy over the years, we have several part-time salesmen who have influential contacts, I don't have to worry about the price, meeting these damned prices all the time. We must have five or six of those, exclusively working for us. We [Tr. A-463] have about six more, in round numbers. I don't know, myself.

FOR PLAINTIFF:

Q. What instructions does those people, those salesmen that you just described outside of the city of Richmond, what instructions do they have regarding quotation prices?

A. I wouldn't say they have any instructions.

Q. What is the situation?

A. They are to make "X" number of calls a day and send all the inquiries they can into the home office. None of them have the privilege, none of them know how to figure box prices. We purposely do this because a salesman—I have found that every salesman is a liar. If I can digress another minute, they will come in and they will swear they saw this particular price. Now, I know you are going to get around to me and talk competition, so I will digress more.

Before the last year or two when communication was open to 99 percent of the competing plants, if a salesman came in—like our price is a dollar and he would come in and he said, "I saw a price from John Jones for 82 cents", either I had to call John Jones to see if this guy is lying or meet the 82 cents price, one or the other. And Dixie Container never thought that that procedure violated the 1940 decree. So, we never felt at all that we were in any violation. Since this started—how long has this been going on, a couple of years?

[Tr. A-464] Q. You mean the investigation that led up to the law suit?

A. Yes.

Q. A couple of years.

A. All right. For the last two years, 95 percent of my competitors are what we call off the air, that is, no communication. In that two years, the prices of corrugated boxes have deteriorated in some instances 40 percent, simply for lack of communication. I can remind you that the industry made in 1960, I think, about 3 percent after taxes on their sales. I wish you would explain to me or some of my competitors, I can cut a price 40 percent and come out. Now, we are small, we are the only independent that is on this thing. Well, Tri-State is independent but we are the smallest independent. I know we can't last much longer at this. If I have digressed enough, what was the question?

[Tr. A-465] FOR PLAINTIFF:

Q. Now, reverting again to the question concerning the salesmen, I understand the situation now, and prior to the two years ago—strike that.

Q. I take it when you say communications are off the air, since two years you have not requested any information from a competitor?

A. I would have loved to have gotten some but it was impossible for me to get it.

Q. Have you given any information?

A. Yes, sir.

Q. In response to requests?

A. Yes, sir.

Q. Now, prior to two years ago, with respect to the area outside of the city of Richmond, inquiries were directed to the home office and of the eight or ten people that you had in the office were they under the instructions that if the inquiry was at manual or above, they could submit a quotation?

A. Two people.

Q. Who were they?

A. The sales manager and our estimator.

[Tr. A-466] Q. Did those two people, I am talking about the period prior to two years ago, did they have authority to submit a quotation when the price quoted was a manual or above?

A. Mr. Bernstein, our policy, again, is just a little bit different from most people. Even when communications were on the air. I personally was reluctant to call some competitors and let them know that I had an inquiry from their particular account because I knew damn well that the minute I hung up the phone that account went down in price. There are a lot of tricks in this thing and a lot of fellows think they know better ones but they don't. So, if we didn't want to call the competitor for price guidance, and we had not gotten it anywhere else, which happens, when you can't get it from the competitor, you can't get it from the competitor, and sometimes it is not an easy thing, then we will start with the highest manual because it is a lot easier to come down than it is to go up.

We will start with the highest manual and submit those prices and then we will adjust those prices as conditions necessitate. That is our policy. That can't be a big [Tr. A-467] company's policy but it can be a little independent company's policy.

Q. Is that the policy that was in effect pretty generally from 1955 through—

A. Pretty generally. That policy has always and is today to try to get the higher and come down if you can.

Q. Now what has been your experience with Dixie Richmond as to the number of corrugated containers that were manufactured to customers' specifications?

A. All are manufactured to customers' specifications. All of Dixie's business I will say.

Q. What kind of trade does Dixie Richmond service?

A. Predominantly furniture, textile, cigarette—Plus a scattering—everybody that has a smoke stack almost can use a corrugated box. I tell the salesmen stop at every place that has a smoke stack and ask them.

Q. Has it been your experience that the specifications of different customers in the same industry vary?

A. I assume you are talking about furniture?

Q. Yes, sir.

A. Well, I would say that you go through your house and not two pieces of furniture in your house are the same size. Furniture people are like box people, they have gimmicks, too, or they change this or change that little bit. [Tr. A-468] They take last year's suite and put a new piece of molding around it and that is new stuff. When this happens some redesigning is necessary. A lot of the larger companies have people in their own organization who can measure this furniture and design the proper carton for it. When that is done then they will blanket the area with an inquiry. Some companies think some corrugated box plants are real good and they will trust them and no one else. When that happens that company usually gets the first cutting and then when he has paid his obligation to the man who did the work, he will list the size.

We have several people that we quote. We have never seen the box, we have never seen the furniture, or seen the size. That is what everybody gets, the same spec sheet, box, 41 by 19, that type. In the textile industry particularly cotton mills, they may not change a size for thirty years. It is very rare that a textile mill changes specifications insofar as size is concerned. They change specifications of a lot but a corrugated salesman going by gimmick can always reduce this in grade so that he can sell it cheaper. That is done quite frequently. What I will say is not ten percent of the box companies represented here design and measure all this damn furniture.

Q. Your company does?

A. If they want us to. I don't like it. Why in the [Tr. A-469] hell do I want to do the work for the guy?

Q. Now referring to the customers in the textile industry, a specific customer might not change his box size of his box different from some other company's specifications?

A. Next door?

Q. Yes, sir.

A. Well, a lot of the yarn mills will have a box that they call 72 cones. Maybe the level will be the same as somebody else's 72, you don't know because you don't have the hypothetical person. You can find instances where they are the same but you have to look. I don't believe we have any that are the same.

Q. There are other features to it that require it to be custom made such as printing and design?

A. Yes. They have their own printing on it, their own name and their own emblems and so forth.

Q. Does that account for the reason why the corrugated shipping container industry does not manufacture boxes?

A. For stock?

Q. For stock.

A. That has a lot to do with it. I would gamble on that, to disgress a minute more, I knew a box company in upstate New York years ago that stocked boxes for two particular customers. He had them two or three years and all the sizes were changed. If that guy had not had a fire he [Tr. A-470] would have been broke. You can't afford to stock them. They get obsolete and they get pushed around, they get beat up. They are like used merchandise when you finally get around to deliver them.

Q. They are perishable to an extent or they deteriorate?

A. I won't say that but you have Coca-Cola spilled all over them. People throw their lunch on them or run fork lifts into them. I wouldn't store mine. I don't know what in the hell other people do.

Q. What has been the experience of Dixie-Richmond with regard to the terms under which they sell f.o.b. delivered or so on?

A. All prices are quoted f.o.b. delivered. If a man wants to pick up at my plant we negotiate it. Off hand my salesmen can go up to five percent.

Q. Allowance?

A. Allowance for pick up. As I said, we have a small company, I don't have people looking up freight rates all the time. It would take three people for that. So, five percent. In the State of Virginia you get three.

Were you present this morning during the deposition of Mr. Johnson?

A. Yes, sir.

[Tr. A-471] Q. Some of the things that I am going into with you will, of necessity, be repetitious.

A. Yes, but he refreshed my memory on two or three instances, too, I will tell you that.

Q. I would like to get your present recollection of a number of things and also your experience in the industry so that if you will please excuse me for going over an area which has already been covered. You referred before to a price that was pretty close to the so-called manual?

A. Yes.

Q. Would you please explain to us this so-called manual that you referred to?

A. To my knowledge there are three manuals out. The first manual that came out as I recall was \$12.35.

Q. When are you talking about?

A. That was the level. That was the National Container manual.

Q. About what period was this?

A. I do have a hell of a bad memory. My wife says it is convenient but I give you my word it isn't.

Q. It takes a lot of mental effort.

A. I would say somewhere around '55, give or take a year or two.

Q. Did you hear Mr. Johnston talk this morning about recollecting being at a meeting hosted by Mr. Dillard of the [Tr. A-472] Old Dominion?

A. Yes, I heard him.

Q. Was that after the National Container manual?

A. Yes. What do you want me to tell you about it except that it was later, period.

Q. The National Container manual was in effect, do you recall when the Old Dominion manual was thrown in?

A. I believe it was two or three years after the National manual.

Q. Do you recall the occasion that Mr. Johnson referred to?

A. No. I tried to this morning when I heard him.

Q. But you don't remember?

A. No. As a rule we both didn't go to meetings—as a rule, because of the expense involved.

Q. And the Old Dominion manual was followed by what now?

A. I don't know in order of sequence whether it was the Gaylord or the Inland.

Q. As far as Dixie-Richmond was concerned what was its experience in regard to using the manual?

A. Again, I will have to digress a minute. Dixie was delighted with the manual. Being small we think we can sell on equal terms. But we can't sell against integrated people who don't give a damn what they sell for. Now if a manual is published and these people would sell by that, that is [Tr. A-473] going to make me rich in volume. It is not going to make me rich in money but I am going to have more volume than I ever had before because I can outsell 95 percent of them tit for toe unless they have some more inducements to offer, tit for toe.

Q. Was there any manual prior to that container manual?

A. Not to my knowledge.

[Tr. A-474] Q. Did you then find that some companies were not following the manual?

A. Yes, sir.

Q. How did you find that out?

A. We would quote the manual and they would tell us, you must be nuts, or you are nowhere near the price.

Q. Then what did you do?

A. If we had an opportunity we would revise.

Q. Did you make any effort when they were so called "on the air" to ascertain what the price was being charged or quoted by a competitor?

A. During the years we have been off the air with certain competitors for various reasons. If this would be [Tr. A-475] one of the competitors at that time we didn't trust, we would not say a word to him. We would determine it ourselves.

Q. If it was a competitor you trusted?

A. Call him.

Q. What information would he then give to you?

A. Well, the usual alibi in a condition of this sort was for the fellow to tell you that John Jones brought that price down.

Q. When you got that information in that form you understood that the customer was then paying the price that John Jones had brought it down to?

A. Yes, sir.

Q. Were you ever requested for information by these same competitors?

A. Yes, sir.

Q. What would you do on those occasions?

A. We would give them the information, Mr. Bernstein. If I am selling a box for a dollar and I don't give you the information, you got to guess at my price, and I don't want you guessing 68 cents of my dollar price. If you are going to cut it I would rather you cut it a penny, to 99. Don't make me look like an idiot. That is why Dixie Container gives prices.

Q. Did Dixie Container give the prices that it was then charging?

[Tr. A-476] A. We have always given, so far as I know—I seldom talk on the phone to competitors but my people have orders not to lie to the competition. Whether they are wrong, bad, good, indifferent. When they give them any answer they have to give them the truth. They don't always have to give them an answer every time somebody asks them something.

Q. You said before that the only thing that was important so far as you were concerned in connection with the information that the manuals had was the multiplier.

A. Yes.

Q. How about the set-up charge? Was it important to know that?

A. Yes, but you know the manual listed the set-up charge, as I recall. So, if you tell me your level, I am assuming you are following the manual complete in other regards.

Q. Were there occasions when somebody would give you a level and a set-up charge?

A. Yes, particularly when you didn't trust them. If I thought that they were giving a set-up charge cheaper than published in the manual, if I had any reason to believe that, we would ask them what is your set-up charge.

Q. Were there occasions when you found that the information received in response to one of your requests from [Tr. A-477] one of your competitors was not accurate?

A. Yes, sir.

Q. What would you do on those occasions?

A. That, again, is a bit of involvement. A big percentage of the time you wouldn't know this for some extended time. If a man is going to place an order tomorrow and asks your past market and I go in and don't get the orders, and of necessity you cut it, you might not have told me, sometimes it is months later and by that time you forget it. If it is a big deal, you retaliate.

Q. What effect, if any, does it have on the nature of the information you would give him?

A. Not a bit.

Q. You would still give him full information?

A. Yes, sir, if we gave him any, we would give him the truth.

Q. Did you have a policy that if you sought to cut a price below a supplier's current price that you would not then ask the supplier for his market information?

A. No, sir.

Q. What policy did you have with regard to that?

A. That is our policy. If we are going to cut it, forget calling the competition.

Q. So, it was your policy, you would not call them?

A. I thought I stated it, it was our policy.

[Tr. A-478] Q. You would not call them.

A. No, sir.

Q. So that the record is clear, when you say no, sir, you mean yes, you would not call a competitor; is that correct, for information as to the price he was then charging your customer if you intended to cut the price; is that correct?

A. That is correct.

Q. During this period of time that you described as being, "on the air", can you give us some idea with what fre-

quency you gave or your company, Dixie-Richmond, gave and received this information?

A. Again, being small, not many people were interested in us and we didn't have many calls. Again, because of our sales situation which I described earlier, some of our people can get information better than the average box salesman because of their relationship with a particular buyer.

Many times, the buyer has turned over to our people the quotes and they have brought the quotes back with them. We would meet these quotes and forget about them provided we would break even on it.

[Tr. A-480] Q. Mr. Mitchell, I would appreciate it, sir, if you would examine the complaint that you have before you and identify by Defendants listed there the names of the persons representing the specific Defendants with whom you have given or received information concerning the prices charged a specific customer during the period from 1955 through 1963 [Tr. A-481] relating to Dixie-Richmond.

A. May I look at the schedule which you gave because that will refresh my memory.

Q. Yes, sir, you may refer to anything you wish.

A. During what period?

Q. 1955 through 1963. Albemarle Paper—well, you take it in any order you wish.

A. Container Corporation, Mr. Colvin and Mr. Clay. Albemarle Paper, Mr. Bagley and Mr. Dozier. Carolina Container, Mr. Ingram, Mr. Holbrook. Continental Can, Mr. Groher and Mr. Johnson and Mr. Beams, who is presently with Southeastern Container.

Crown Zellerbach, Gordon Clark. Inland Container, Barney Roberts. International Paper Company, Hugh Reid. The Mead Corporation—now, I have to think of the boys' names in Durham. Wainwright and these two people you have listed, that in the Atlanta or Miami offices, I would have no occasion to talk to them. I forget that other boy's name, Mead in Durham. The sales manager, that is his title.

Miller Container, Mr. Kyle, Mr. Noftsinger. Owens-Illinois Glass, Rosenbaum and there is another new one

there now, he has been there quite awhile though, D. Brittain. I have never talked to anyone from St. Joe Paper Company regarding corrugated boxes. I have never talked to anyone from St. Regis Paper Company involving corrugated boxes. [Tr. A-482] Tri-State Container Corporation, Alan C. McDonold.

Union Bag-Camp, John Pritchett and Ed Faulkner. West Virginia Pulp and Paper Company, Joseph T. Piemonte and David Orcutt. Weyerhaeuser Company, which at that time, 1955, was Old Dominion Paper Company, Ivan Wood, George Elliott and one of the more recent ones, I think his name was Grain or Grange. I only met him once. I don't think I have ever discussed corrugated boxes with Waterbury Corrugated Container.

[Tr. A-483] Q. Do you recall the occasion of the meeting in your office in or about February 1962?

A. If you were to ask me that yesterday afternoon, I would have told you no. That is what I get for attending.

Q. What if you were asked this afternoon?

A. What is your question?

Q. My question is: Do you recall that meeting?

A. Yes, I seem to recall the meeting.

Q. Would you please tell us what you presently recall about it?

A. Not much. I have a little bar in my office. One of the gentlemen got upset because I didn't have any beer in it. I recall that very fluently. I don't recall much about it.

[Tr. A-484] Q. Do you recall what occasioned it?

A. It was in my office. I have the largest office in Richmond, in the corrugated box department. So, mine was probably the only office that they could get them all in.

Q. Do you recall who suggested that they be there?

A. It was probably me.

Q. Do you recall what the purpose was?

A. Well, now that I heard some this morning, I think I have been refreshed a bit.

Q. We are trying to get your present independent recollection. Now what you heard can refresh your recollection, but your testimony now must be what you personally recollect.

A. I don't recollect the wording or the phraseology of this meeting at all. I believe from the testimony that I have heard that it was about the time——

Q. Excuse me, when you say you believe from the testimony you heard——

A. That refreshed my memory.

Q. You are talking from your own memory now?

A. Yes, sir. With this help.

Apparently the mills had just announced a price increase in liner board. We have some competitors in Richmond who are very reluctant to try to make a profit. I would think, knowing myself, that I called these people together to ask them, "Are you going to get this damn money back or not?" [Tr. A-485] Which, of course, was always one hundred per cent in accord with getting it all back plus a little extra if we could. The box people can be awfully wishy-washy when they want to be. I don't recall that I got a commitment that they would. I think they had to take it up with their people.

I could not pin it down as to when this would take place. All of them said, "Naturally, we are," but when, they don't know. Most of it was never.

Q. Most of it was what?

A. Never for that particular increase.

Q. That resulted in what, sir?

A. It resulted in, I would say, a mistrial.

Q. Is it fair to say, sir—reverting to the deposition again, Mr. Mitchell, was it your purpose to discuss this increase on the occasion of that meeting in your office in February, 1962?

A. Yes, sir.

Q. Do you recall making a telephone call to Inland Container Corporation on that occasion?

A. No, I don't recall.

Q. Do you recall whether or not the Inland Manual shortly thereafter did have an increased board level price?

A. I can't get these dates coordinated, whether it was before, after. I don't know if that manual came out at that time or not.

[Tr. A-486] Q. When you referred to the mistrial before, did you mean, sir, that the competitors, some of your competitors or all of your competitors did not raise their prices to specific customers to take care of that increase?

A. I didn't have that in mind when I said the meeting broke up in a mistrial.

Q. What did you mean?

A. The meeting broke up as if it had not started for all that it accomplished.

[Tr. A-487] Q. What about during the course of the meetings of the Fibre Box Association, zone 10, what was discussed there?

A. I think if you would poll the members of the Fibre Box Association, that they would tell you that I have told these people many, many times it is a damn waste of time coming to hear these statistics. That is all we do. It would last about an hour. Years ago they used to go around the table for general business or discussions, how is it in your area, is business lousy, and so forth. The Fibre Box Association has a lawyer in attendance at each meeting. If one word come out of any member that would put them in [Tr. A-488] violation of any of the various acts the lawyer immediately hushed that conversation, we don't have that in a Fibre Box meeting. You can't do your laundry in these meetings at all.

Q. Do you do your laundry at the rump sessions before or after?

A. These rump sessions, you have to do your laundry with the person you want it done with. If I want to fuss at you about a particular instance I don't want six or eight people around because to tell you the truth that is one of the reasons we went, to gather information. I have enough sense to know that the others are gathering information. So, if you and I are talking about a particular account, I don't want three competitors listening to our conversation,

Q. Unless—

A. Unless they are involved.

Q. And if they are involved you do want those?

A. Yes, sir, if I can get them to listen.

[Tr. A-637]

Tuesday, March 3, 1964

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendants, Dixie Container Corporation and Dixie Container Corporation of North Carolina: John W. Edmonds, III, John W. Hardy, other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF JOSEPH A. SCHWIND

(PX-31)

[Tr. A-639] Q. Mr. Schwind, I would like to ask you, what is your present employment?

A. My present employment?

Q. Yes.

A. You mean my occupation?

Q. Yes.

A. General manager of Dixie Container Corporation of North Carolina.

[Tr. A-640] Q. Now what is the business of Dixie Container Corporation of North Carolina?

A. The manufacturing and sale of corrugated containers and its component parts.

Q. Would you tell us in general the types of customers to whom you sell?

A. The furniture trade, the textile trade—by textile I include hosiery and all types of textile manufacturers—just anybody that ships within our marketing area.

Q. Now I would like you to tell us the territory in which you sell containers and I refer to Dixie of North Carolina?

[Tr. A-641] A. Dixie Container Corporation of North Carolina, now soliciting corrugated box business in the western part of North Carolina, the northwest or the southern tip of Virginia, and the eastern, far eastern side of

Tennessee. We do a very little bit of business in the uppermost portion of South Carolina. We also have an account in New Jersey and we have one account in Delaware.

Q. Unless I tell you different, if I ask you about periods I will be referring up to October 14, 1963. Now is your answer responsive, taking that into consideration?

A. Mr. Freeze, we just started soliciting business in the Virginia area, the exact date I don't recall, it has been maybe six months ago, maybe a little bit longer but not very long.

Q. Now do you know what the date was when Dixie of North Carolina started first in business?

A. March 1, 1959.

Q. Now this territory that you outlined, would that be the territory covered between the dates of March 1959 and October 1963?

A. With the exception of the Virginia area I just mentioned, yes, as I recall.

Q. Will you tell us what your responsibilities are as General Manager?

[Tr. A-642] A. That covers a lot of things.

Q. Let me withdraw that. I would like to ask you, does your work cover sales' responsibilities and operating responsibilities which would be manufacturing? Would it cover both of those or either of them?

A. It covers both of them.

Q. Now, confining ourselves for the moment to sales, are you the chief sales person for Dixie of North Carolina?

A. Yes, I am.

Q. Do you have salesmen under you?

A. Yes, sir, I do.

Q. Do you personally do any selling?

A. Yes, I do. Approximately 60 percent of the volume I personally sell.

Q. How many salesmen do you have under you?

A. I have two salesmen on the payroll as full-time salesmen. Those are other than myself. As I recall it is six part-time salesmen which we call commission salesmen.

Q. Now, in speaking of the period prior to October, 1963,

when a customer was contacted, either one of your salesmen contacted your customer or the customer contacted one of your salesmen, at what stage was price determined that you would quote to the customer?

A. Prior to quoting a customer.

Q. I presume your salesman would work out the [Tr. A-643] specifications for an order with a prospect; is that right?

A. Yes, sir.

Q. Could your salesman quote a price at that time or did it have to be computed?

A. Our salesmen cannot quote prices. They have to be computed by the office.

Q. Now, who actually computed the price for Dixie-North Carolina? Who or what person?

A. Sometimes I did and sometimes my office personnel did.

Q. What is the title of the office person other than yourself who would compute prices?

A. Well, my production man figures prices. I have an estimating man who figures prices. Just about anybody can figure a price.

Q. Suppose you get an order for a custom-made carton for a customer, would you tell us, please, how you arrive at the price you quote the customer?

A. Are we saying a new customer, Mr. Freeze?

Q. Let us take, first, a new customer.

A. A salesman, first of all, has all these specifications. Sometimes he can get the price or approximate price from the buyer. Many times, he will quote manual, on the manual, top dollar. Sometimes, if I know who the suppliers are, I will call them and ask for past market [Tr. A-644] information on this account.

Q. You mentioned a moment ago, I believe, that at times you would obtain information as to market levels from competitors, is that true?

A. That is right, sir.

Q. Now, I would like you to take the complaint, copy of the complaint which you have there, and tell me, starting with the top named defendant, with which of these com-

panies you have either given market levels or received market levels. Is that clear?

[Tr. A-645] A. Name the companies to which I spoke?

Q. Yes, indicate the companies with which you have had these exchanges. First, is it clear as to what I mean by exchanges?

A. Yes. Container Corporation of America—

Q. Let me interrupt you again. As we go down, in order to save time, will you tell me as you name the company the individuals whom you contacted during this period or had these contacts with during the period March 1959 until October 1963? In other words, after you give me the name of the company, give me the individual to the best of your recollection. Is that clear?

A. Yes, sir.

Container Corporation of America, Winston-Salem, at that time it was known as the Mengel Company, Mr. Bill Colvin, J. D. Evans, and Adolph Clay. They have one plant in Tennessee, Knoxville, I believe, Mr. McCorkle.

Albemarle Paper Manufacturing Company, I believe I may have talked to Mr. Dozier. As I recall, it was only one time.

Carolina Container Company—I can't recall ever discussing any market information with C. T. Ingram. I have with Mr. Holbrook and with Mr. Webster.

[Tr. A-646] Continental Can—this is in the period from 59 through 63?

Q. Well, your Dixie-North Carolina went in business in 1959. From that date until October 1963.

A. I forget the sales manager's name—Mr. Beams.

Mr. Johnson: That is Continental Can Company, is that right?

The Witness: Yes. Also there is one other gentleman, I think, I recall talking to in the Martinsville plant. I don't recall his name.

Crown Zellerbach would be Gordon Clark. Inland Container Corporation, I believe I spoke to Mr. Roberts one time.

International Paper Company, Mr. Hugh Reid and Spike Ennis.

The Mead Corporation, Mr. Bob Wainscott and Mr. Bert Pritchett.

Miller Container Corporation, Mr. Bill Noftsinger. I don't recall ever speaking to Mr. Kyle on past market information.

Owens-Illinois Glass Company, Mr. Rosenbaum and Mr. Brittain. St. Joe Paper Company, I never had occasion to call, nor St. Regis Paper Company. Tri-State Container [Tr. A-647] Corporation, Mr. Alan McDonald.

Union Bag-Camp Paper Corporation, in the Jamestown North Carolina, plant, Mr. Ed Faulkner, Mr. Ken Payne, Mr. Tom Fahy.

In the Spartanburg, South Carolina, plant, Mr. Frank Grimes and Mr. Jim Goodman.

West Virginia Pulp and Paper Company, Alan Holt. Weyerhaeuser, Mr. George Elliott, Mr. Ed Graine.

The Waterbury Container Company, which I know as Blue Ridge Container Company, Mr. Joe Reynolds and Jack Walker.

Q. Now, Mr. Schwind, is it your testimony that in connection with these individuals that you have just named, you both received information as to prices charged specific customers and also gave that information?

A. In most cases I am sure I did, I received and I gave.

[Tr. A-648] In connection with these exchanges of information which you have spoken of, were they made by telephone or in personal encounter or by what means normally.

A. Normally by telephone.

Q. Were they ever made other than by telephone?

A. There may have been a few occasions that I happened to be in the area and I stopped by to talk to a competitor.

Q. Now, I would like to ask you a little bit about the type of information exchanged on these occasions. Exactly what would be exchanged, what information?

A. You mean if I called a competitor and ask him?

Q. Let me ask it this way. Suppose you desired information from a competitor, what would you ask him?

A. "Can I have your past market in this account?"

Q. What is your definition of what you mean by past market?

A. What he sold his account for, the going price, what he is getting for it.

Q. You said going price. How would you define going price, the most current market?

A. The last price he got for the item or the order?

[Tr. A-649] Q. I am asking you, what is your meaning? You used the term. What is your definition of going price?

A. What he got for the last order. This is, as a rule, the market.

[Tr. A-651] Q. Have there been any occasions when you have given or received what you have defined as market information to competitors at a Fibre Box meeting?

A. I am sure there has been, I don't recall any offhand. You know, just to say, "What is your past market in this account?" He may elect to tell me, he may not. He may give me the wrong information.

[Tr. A-367]

Tuesday, March 3, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Continental Can Co., Inc.: Helmer R. Johnson, W. C. Harris, Jr., Charles E. Lewis. Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF JEHAN BOUTIN JOHNSON

(PX-21)

[Tr. A-368] Q. Will you please spell your first name, Mr. Johnson?

A. J-e-h-a-n.

Q. And your middle name?

A. B.

Q. And by whom are you employed, Mr. Johnson?

A. Continental Can Company.

Q. And in what capacity, sir?

A. District Sales Manager.

Q. How long have you held that position?

A. Since January 1, 1962.

Q. Prior thereto, had you been in the employ of the Continental Can Company?

A. No, sir.

Q. By whom were you employed prior to January 1, 1962, that is immediately prior thereto?

A. Dixie Container Corporation.

[Tr. A-370] Q. Now during the period of time that you have been with Continental Can Company, has there been a uniform policy with regard to f.o.b. sales? Have they uniformly been sold on a delivered basis?

A. Not always.

Q. What are some of the other bases upon which it has been sold?

A. Pick-up.

Q. Are those the only two?

[Tr. A-371] A. If you mean are they either delivered or picked up, the answer is yes.

Q. I am talking about the price quotation. We know that they are either delivered or they are picked up, but who bears the freight? Who pays the bill?

A. I think basically we, in effect, always pay the bill, because if the customer picks up, we allow the freight.

Q. When you make delivery to his door, you pay the amount of the freight to his plant, is that correct, regardless of location?

A. Not always, Mr. Bernstein. There are exceptions, but that is the general practice.

Q. On those occasions when the customer made the pick-up and an allowance was granted by Continental Can, was there a uniform allowance granted? How was that determined?

A. It is usually based upon the actual freight that it would cost to ship the customer. This is sometimes difficult to determine because your costs could perhaps vary. If you would be using rail carrier, that would be one thing, a common carrier another thing, a contract carrier a third thing, and your own truck a fourth thing. So, the specific answer to your question would be difficult unless I knew exactly which area we were talking about. Basically, we would allow the actual freight.

[Tr. A-374] Q. I will rephrase the question again, and take it in pieces. You stated before that you were interested in all of [Tr. A-375] the information that you could get concerning a specific account, is that correct, sir?

A. Yes, sir.

Q. And one of the items that you were interested in was the price that a specific customer was then paying for the shipping containers he was then using, is that correct?

A. Yes, sir.

Q. And you sought to obtain this information from the salesman, is that correct?

A. Yes, sir.

Q. Now, from what other sources did you attempt to obtain this information?

A. I could obtain that from possibly contacts with competitors, past experience, and general knowledge. You often are able to estimate fairly accurately the price of a given container on the basis of price information you may already have on previous containers consumed by that particular customer.

Q. Now, will you explain the last answer, how that happens, that you personally would often be able to ascertain the price that he was then paying for his present container, based on the price, that he was presently paying for a different container?

A. Exactly.

[Tr. A-376] Q. Will you explain that, please?

A. Well, if I am supplying a customer a box of a given size, and he has requested another one, I am generally going to calculate the price on the new specifications on the same basis that I had sold him the previous item.

Q. When you say on the same basis, does that have any relationship to board level or multiplier factors?

A. Well, we use a square footage as a basis.

Q. What do you multiply the square footage by?

A. Well, we multiply the square footage by a figure which will represent the cost or rather the selling price of a given grade of board which in turn is developed from the components of that given grade of corrugated board.

Q. Does that multiplier have a specific name?

A. Well, "multiplier" is one name.

Q. What is another name for it? Is there any other name?

A. "Level" is a name, "factor" is a name.

Q. Now, you have just described an instance where your company is supplying some other boxes to the customer. Are you able to ascertain the same information if a competitor was supplying a different box to that customer?

A. Yes, sir.

Q. How would you do that?

A. Well, you can determine that from the competitor [Tr. A-377] from a third competitor that may or may not supply the account but may know the price, or another salesman may know it, and so on.

Q. What has been the practice from January 1, 1962, with obtaining that information from another competitor?

A. Well, if I felt that was necessary, I would request that information.

Q. How?

A. Usually by contacting the competitor, by telephone.

Q. And was that competitor generally within the same city in which your office was located?

A. No, sir.

Q. And these then involve long distance calls?

A. Sometimes, yes.

Q. And what distance?

A. Well, they would usually be competitors within the market area that I am responsible for. Generally speaking the customers in my market area not supplied by me or my firm are usually supplied by other firms within or adjacent or nearby the same area.

We don't get involved in great distances, at least I don't in my responsibilities.

Q. Now, you also distinguished between either calling a competitor who was then supplying the boxes, is that correct?

[Tr. A-378] Let me restate it. I believe you just testified that when your company was not supplying a different box to a specific customer, but some other competitor was supplying that box, you might call not the competitor who was supplying the box, but some other competitor who was not supplying the box, who would have information about that?

A. Yes, sir.

Q. Would you explain that, please?

A. Well—

Mr. Johnson: Maybe you could be more specific about what you mean by "explaining".

The Witness: I was going to say, I would call some competitor that possibly is not supplying the box.

By Mr. Bernstein:

Q. Would you select any specific competitor?

A. Not necessarily. It would depend on the account. My selection would depend on the account.

Q. Can you give us some idea of what factors you would consider in determining which company of each of the defendants listed here you might call, or which one you would not call?

A. I think, Mr. Bernstein, the principal factor would be experience.

Q. Experience as to what, sir?

A. My own experience. In other words, certain suppliers [Tr. A-379] tend to supply certain accounts, although not necessarily a given box.

Q. Is it a fair statement to say that in many instances, you personally are familiar with which competitors are suppliers of which accounts, is that correct?

A. Basically, yes.

Q. And you are also generally familiar with in a general way, in many instances, with competitors who are not then supplying a particular account but have in the past, is that correct?

A. Can I answer that another way?

Q. Go ahead.

A. In the accounts I supplied, we certainly make it a point to keep as well informed as possible about competitive activities in those accounts. Now, naturally our plants are running and the principal business that I am concerned with is the customers that I am supplying. And I make it a point to try to keep as well informed as possible about competitive activities in the accounts that I am supplying, first of all, because an ounce of prevention is worth a pound of cure.

Q. And what people do you rely on to gather that information from?

A. Principally the salesmen.

Q. The salesmen of other competitors, is that correct?

A. No, principally my own salesmen. They keep in [Tr. A-380] constant touch with the accounts that we supply, and they are trained and encouraged to have a nose out for any competitive activity of any kind. You know, "So-and-so is sniffing around such-and-such account."

Q. I see. So that if you have information that comes to you from your own salesman that would indicate to you some other competitor might be interested in that particular account, you would call that competitor, is that correct sir,?

A. Possibly, or perhaps I might call another supplier who is in the account with me, who might have heard the same information, to try to get this, to try to determine whether this information is accurate and so on and so forth.

Q. And how do you ask that information? How do you refer to it? Could you describe a typical conversation where you are interested in finding out the price that a specific customer is then paying for a box that he is using?

A. Repeat that for me, please.

(The question referred to was read by the reporter.)

The Witness: Well, I may say, "What is the price of such-and-such a container?"

Or, "What is the price in this account?"

Or, "Has so-and-so got a lower price in this account?"

Or, "What in the world is so-and-so up to? Have you [Tr. A-381] heard anything about XYZ Company?" I am being hypothetical, of course. "Making an offer to these people?"

"Have you an order lately for this?"

Or, "What has been your experience last week?" Or, "When was your man in there last?" My activities are principally to inform me or to get more information.

By Mr. Bernstein:

Q. And on those occasions when a competitor would give you information in terms of a price, would he give it to you in terms of board level or end price or in what fashion?

A. I would say in both.

Q. When he gave it to you—

A. He may not do both at once, but one of the other.

Q. It varied depending on the conversation?

A. Yes.

Q. On those occasion when you would say \$13, if somebody gave you that answer in response to a question that you had asked as to what was the level, what would you understand him to mean when he said \$13?

A. I would assume he was getting \$13 for 200-test board.

Q. And computed with what set-up charge?

A. I wouldn't know that.

[Tr. A-382] Q. I know you didn't make specific mention of it in the conversations, but did you understand that the reference was to the \$13, for example, that it referred to the Inland Manual? Did you understand that?

A. Well, not necessarily, because ever since I have been in the box business, when you are talking shop to a box man, your own people and other people, as far as I know it has been historical practice for 40 or 50 years to refer to pricing in terms of 200 test and presumably long before I got into the industry if a man says an account was \$8 or \$9, maybe 30 years ago, he is talking approximately about the price of 200 pound test board. So that this matter of levels and so on, as far as I know, of course I wasn't in the industry, but judging from what I have heard and learned about it, it has been the common method of pricing since, in fact as far as I know when there was solid fiber, they priced it in the same fashion.

Q. Right. I am asking about your personal experience now. When you talk about a level of 200 test, is it your knowledge that there is uniform differential between the different tests in the Inland Manual?

A. Yes, sir—well, I don't quite follow you—

Q. Supposing you are interested in ascertaining the price of a box that is 175 pound test, and you received the \$13 price, and you understood that to refer to the 200 test, [Tr. A-383] was there a uniform differential that you applied to the price of the 175 pound test?

A. Yes, sir, it is a pretty standard, uniform—it is based on the raw material that is in it, the difference between 175 test and 200 test is basically the difference between the liners that go to make up the combination and therefore the difference in cost would be relatively uniform.

Q. You have used the phrase "past market". Would you please explain what you mean by those words?

A. Basically, I think it would mean what we have either sold containers for or offered to sell for in the past.

Q. I show you the complaint filed in this action and invite your attention to the specific Defendants listed thereon. I would ask you, Mr. Johnson, to please try, with respect to each one of the Defendants there named, to identify the representatives of such Defendants to whom you gave or received information concerning "past market" to specific customers during the period from January 1, 1962, and thereafter.

[Tr. A-384] A. Container Corporation—I am not sure if I have talked to their representatives during that period. If it was, I believe it might have been a very brief time. It would have been Mr. Clay or Mr. Evans. Albemarle Paper Manufacturing Company, it would have been Mr. Bagley or Mr. Dozier. Carolina Container Company, Messrs. Ingram, Holbrook or Webster. Crown Zellerbach, Mr. Clark.

Dixie Container, Mr. Downs, Mr. Mitchell. Dixie Container Corporation of North Carolina, Mr. Schwind. Inland Container Corporation, Barney Roberts. International Paper, again, Mr. Bernstein, I don't believe I have talked to their representatives during the period that you referred to.

Also, I believe that is probably true of Mead Corporation. It may be in the very beginning of the period.

Miller Container Corporation, Mr. Noftsinger, Owens-Illinois Glass Company, Mr. Rosenbaum, Mr. Brittain. St. Joe Paper Company, no one.

St. Regis, it is possible I have talked to Mr. Diggs but they are a long ways from my area and I rarely ever talked to them.

Tri-State, Mr. McDonald. Union Bag, Mr. Faulkner or Mr. Wulff.

[Tr. A-385] West Virginia, Mr. Orcutt, Mr. Barrow. Weyerhaeuser Company, Mr. Elliott, Mr. Riggs. I don't believe I have actually ever talked—maybe once to Mr. Riggs, or twice.

Waterbury Corrugated is Mr. Reynolds.

Q. During the period of time when you were with Dixie Container Company, would you identify the individuals that you spoke to?

A. Container Corporation, Mr. Evans and Mr. Clay. Albermarle Paper Manufacturing Company, Mr. Dozier, Mr. Bagley. Carolina Container Company, Mr. Holbrook and Ingram and Webster. Crown Zellerbach, Mr. Clark. Inland Container, Barney Roberts.

International Paper Company, Hugh Reid. Mead Corporation, Bob Waynescott, and Dave Bloom. Miller Container, Mr. Kyle, Mr. Noftsinger.

Owens-Illinois, Mr. Rosenbaum and Mr. Cobb, possibly Brittain. I don't know whether he was there when I was with Dixie or not.

St. Joe, I don't recall the names.

Q. Excuse me. You say you don't recall the names. But do you recall having conversations with somebody?

A. Probably had a few with somebody.

.

Q. St. Joe Paper Company.

A. St. Regis, again very little contact with them. [Tr. A-386] Tri-State, Alan McDonald. Union Bag, Mr. Pritchett. Mr. Faulkner.

.

The Witness: West Virginia Pulp and Paper, Mr. Orcutt and Mr. Holt. Weyerhaeuser Company—perhaps this wasn't Weyerhaeuser during that period. Again, I don't know off-hand.

By Mr. Bernstein:

Q. Who was the individual with whom you gave or received "past market information" in behalf of Old Dominion Box Company?

A. Ivan Wood. I don't believe Waterbury was in operation at that time, either. Again, I am not sure.

A. Do you recall whether or not you had conversations with any representative of Highland Container?

A. Yes, sir.

Q. Was that plant subsequently acquired by Union Bag?

A. Yes, sir.

Q. Who, in behalf of Highland Container, did you have those conversations with?

A. I thought it was Mr. Faulkner but I could be in error there.

Q. How about Mr. Pritchett?

A. Yes, sir, I believe I mentioned him.

.

[Tr. A-387] By Mr. Bernstein:

Q. Now about on telephone calls to and from the office, on those occasions when you are in the office, is this a common occurrence?

A. Well, it would depend on what you mean by "common." I will put it this way: It is not an uncommon occurrence, whether there is anything or not.

Q. You did not consider it unusual within your business, is that correct?

A. Absolutely not.

.

Q. Mr. Johnson, inviting your attention to the year 1959, in the period of time when you were then in the employ of the Dixie Container Company, do you recall any occasions when you were in the company of competitors at the Sir Walter Raleigh Hotel in Raleigh, North Carolina?

A. I cannot state for sure it was during 1959.

Q. Do you recall a meeting with competitors in the Sir Walter Raleigh Hotel?

A. Yes, sir.

Q. What do you recall about it?

A. Well, actually at this late date, mainly that I went to the meeting.

Q. Do you have any recollection as to what the subject matter of the meeting was?

[Tr. A-388] A. Not specifically, no, sir.

Q. If I were to suggest to you the subject of set-up charges, would that refresh your recollection in any manner?

A. Well, it is possible that along in that time was when

the set-up charge changed. Now again I am not sure of the time exactly.

Q. Now, addressing my questions—strike that. Let us approach it this way: What was the set-up charge you used in trying to ascertain what some competitor might be charging a specific customer when you received information from that competitor as to the board level during the period from 1961 and thereafter?

A. 1961?

Q. Yes.

A. Well, it would be any one of several set-up charges, I believe. The period has probably gotten me a little confused.

Q. Well, do you recall any occasions when there was a \$25 set-up charge?

A. Yes, sir.

Q. When was that, to the best of your recollection?

A. Well, the \$25 set-up is in existence now.

Q. And do you recall generally how long that has been in existence, continuously for the recent past?

A. Certainly it has been several years, and exactly [Tr. A-389] how long, I don't remember.

Q. Do you recall what the set-up charge was immediately before it was \$25?

A. \$15.

Q. And had that been in effect any length of time?

A. I think it had been in effect some length of time.

Q. And immediately prior to \$15, do you know what the set-up charge was, or had been?

A. Well, I actually think perhaps it was \$25, but also \$15 and also \$8 and \$10 and \$12, and so on.

Q. Prior thereto on successive occasions, is that correct, successively?

A. Set-up charges are not always the same in every account in any given moment.

Q. Do they vary from box to box?

A. Definitely.

Q. And is there a basic set-up charge for a regular slotted carton?

A. Well, there are several basic set-up charges.

Q. For regular slotted cartons?

A. For regular slotted cartons, yes, sir.

Q. Do you recall the occasion when the \$15 set-up

charges was changed to—strike that. Without necessarily recalling the specific date, can you recall the period, or circumstances about the time when the \$15 set-up charge was [Tr. A-390] being given consideration for a change to the \$25 set-up charge? Do you recall having any discussions with any competitors on that subject at about that time?

A. Well, I undoubtedly had discussions with them, but recalling the specific ones, it is very difficult. This process went on for several years, I believe, and there were other areas where the set-up charges were varied, and they still are, and so on.

Q. Were those discussions held on occasions when several competitors were together at a meeting?

A. Well, certainly it is possible, and I don't recall specific instances, personally, but I probably began to contact competitors during this period, personally.

Q. And can you give us some more precise explanation of what the subject matter of the conversations were when you contacted competitors concerning these set-up charges?

A. Well, I don't really recall a specific occasion where I contacted somebody specifically about the set-up charges.

Q. But do you have a general recollection now of the general nature of the subject and what the general subject matter was and what you were trying to accomplish and what—strike that—and what you were trying to convey to them and what they were trying to convey to you?

A. Would you go over that again? That "strike" got me [Tr. A-391] confused.

Q. I will re-phrase the question. Do you now have a current recollection in general terms of the subject matter of what you told the competitors and what the competitors told you in relation to change in set-up charges, from \$15 to \$25?

A. Well, I am not exactly sure. It seems to me that a manual was published by one of the competitors or maybe more than one, reflecting a higher set-up charge. The only general recollection that I might have would be that after the manual was published, "Is it sticking?" or something like that.

You are asking me to make a general recollection of a period that might have been several years long actually, and I am awfully vague about it, because it seems to me

there was a manual published with a higher set-up, and then subsequently one was published which went back to the old one and another one was published, and to give you a general recollection, it is very confused in my mind.

I didn't begin to contact competitors, or rather I probably began to contact competitors during this period as far as my experience in the box business is concerned, in 1959, for example, would go back seven years, and I have only been in the business about nine years. It was when I was pretty green, and I don't really know how I could give you a [Tr. A-392] general recollection, except a very general one that it seems to me that the set-up charges went up and down and up and down, and subsequently settled down to the present set-up charge.

Q. All right.

A. Which is not necessarily always the set up.

Q. Recognizing the burden this places on you, on taxing your memory, I would ask you please to try and recollect now during the latter period of time when you were with Dixie Container, and the set up charge was increased to \$25.00. Do you recall whether or not you contacted any competitors to find out what their experience was with regard to the reception of customers to the increased set up charge?

A. I probably did.

Q. Do you recall whether this was by individual contacts with competitors, or whether there were occasions when several representatives of several competitors would be together in one room or in one place discussing it?

A. I would say probably it happened both ways.

.

Q. Now, can you recall whether there were any occasions when either you or someone else specifically arranged a meeting for a discussion of a common problem relating to corrugated containers?

A. Well, I don't think that I have arranged any. But I would say, "yes".

[Tr. A-393] Q. Now, how about those, do you recall any that you attended?

A. I attended a meeting at Mr. Mitchell's office.

Q. Which Mr. Mitchell is that?

A. Dixie Container.

Q. Will you tell us about that to the best of your recollection?

A. That meeting happened when the price of liner board went up, I believe in early 1962. We just met in his office and had a bull session, mostly revolving around the fact that the liner board had been increased. Everybody was raising the devil about it.

Q. Was there any discussion concerning increasing the price of corrugated containers?

A. Yes, sir. I, for one, had been ordered to raise my price by my company.

Q. Who else was present at that meeting, to the best of your recollection?

A. Well, Mr. Groner was present. I think he left early. Mr. Kyle and Noftsinger were present. Mr. Bagley and Mr. Dozier were present. I think we were supposed to have lunch. Some of us had lunch, and others didn't.

Q. And where was Mr. Mitchell's office at that time, in what city?

A. Richmond.

[Tr. A-394] Q. Your office was in Richmond, is that correct?

A. Yes, sir.

Q. Was Mr. Dozier and Mr. Bagley's office in Richmond at that time?

A. Yes.

Q. Was Mr. Noftsinger's office in Richmond at that time?

A. I am not sure about the timing. His office is in Roanoke, but I think at that time his parent company's office was in Richmond.

Q. How about Mr. Kyle?

A. He and Mr. Noftsinger are associated with the same company.

Q. Do you know whether his office was in Richmond?

A. Their regular office was in Roanoke.

Q. Do you recall whether or not any of those other gentlemen had advised you that they had raised their prices on corrugated containers?

A. I think probably yes.

Q. What did the discussion concern itself with?

A. Well, the fact that liner board had been increased and we had to recover the increased cost. Liner board

being the principal raw material of a container.

Q. Do you recall whether you told them that your price would increase?

A. I believe I probably told them that I had been [Tr. A-395] instructed to raise my price and had already instructed my salesmen and so on to do so.

Q. Had the increase actually been communicated to your customers yet?

A. Yes, I think that it had, because I had—well, again, you advise your salesmen to advise their customers of price increases and if a guy has a hundred customers, the hundredth one will be later than the first one, but I had put in motion definitely the process of raising prices and had advised them.

As I recall, there was a fairly substantial notice given on the increase in the price of liner board.

Q. In the price of liner board?

A. Right.

Q. How about the price of corrugated shipping container?

A. In most cases we would advise our customers that our prices were going to be raised effective with shipments whenever the liner board increase was also effective, thereby passing it on to them. We may inform them this afternoon that on April first, for example, when liner board goes up, our box price will also be increased; in the meantime, between this afternoon and April first, it is not, but the customer has been advised what is obviously going to be an increase in price.

[Tr. A-396] Q. Did you give any consideration at all at that time as to whether your competitors were going to increase the prices for their shipping containers effective March 1st?

A. I think that these, plus probably other published articles, indicated that practically all the mills were going up on liner board and that would certainly lead me to assume that all of my competitors were going to go up on box prices, because their raw materials were going to increase.

This has been past practice, also, that as liner board has gone up, box prices have gone up.

Q. Were you endeavoring to ascertain from Mr. Miller and the other members there whether they planned to increase their prices effective the same time as your company?

A. Well, the way I felt about it was that I was under instructions from my company to raise my box prices, and it certainly was likely I would not be able to do that if my competitors did not increase their prices. So I was naturally interested at the time in what my competitors were doing or had been doing, as I always am.

In a highly competitive business you spend half your time wondering what your competitors are up to. That is where your business goes if you lose your account, it goes to some competitor.

[Tr. A-397] Q. Do you recall what Mr. Dozier or Mr. Bagley told you concerning Richmond's intentions?

A. Not specifically. I believe they indicated that their company was raising the price of liner board and therefore they were raising the price of boxes.

Q. How about Mr. Noftsinger and Mr. Kyle?

A. Again, I think the issue here is that the liner board had been raised. It is almost automatic that you have to raise your box prices to recover these costs.

Q. Do you recall any discussion concerning what other competitors were going to do toward increasing the price of corrugated shipping containers?

A. I think that there was certainly discussion and speculation on whether or not they would, and so on and so forth.

Q. Do you recall whether any telephone calls were made on that occasion to ascertain what other competitors were going to do about increasing their prices of corrugated shipping containers?

A. I believe that someone stated that he had heard that a change in the manual had been published. I believe that a telephone call was made to try to determine if a change in the manual had been published, and I believe that it was ascertained at the time that a change had been published in the manual.

[Tr. A-398] Q. Do you recall who made the telephone call?

A. I believe Mr. Mitchell made the telephone call.

Q. Do you recall to whom he made the telephone call?

A. I believe he made it to Inland Container.

Q. Do you recall whether the information referred to a change in the Inland Container Manual?

A. Basically I think it did.

Q. I am talking of occasions when two or three representatives of a competitor, are together discussing a common problem from 1961 on.

A. I remember a meeting attended in January 1961.

Q. Tell us what your recollection about that would be?

A. I had been working for Continental two or three days and we had obtained market information, or, rather, Continental apparently had obtained market information from a competitor and promptly quoted a more attractive price to the customer and received a contract, and I wasn't a party to this action because I wasn't employed by the company at the time but at the time of the meeting I was with the company. We then had the business.

Q. Who was present?

A. Mr. Riggs of Weyerhaeuser and some other gentlemen whose name I have forgotten, and Mr. Groner and myself.

Q. What company was the other gentleman with?

[Tr. A-399] A. Weyerhaeuser.

Q. Where was the meeting held?

A. At the Marriott Motel near Washington.

Q. Do you know Mr. Duggan?

A. Yes, I know Mr. Duggan.

Q. Do you recall whether he was present at it?

A. I don't believe he was but I can't say for sure. It seems to me that Mr. Duggan was transferred out of their Baltimore plant just about that time. I don't believe he was but he might have been. He was with that company.

Q. Do you recall what account was involved?

A. Yes, sir.

Q. What was the name of the account?

A. Gwaltney, Inc.

Q. To the best of your recollection can you tell us what the conversation was?

A. Well, it was—

Q. The substance of this. We don't expect word for word but the substance of it.

A. Just what I related to you. Apparently Continental had asked Weyerhaeuser for the past market at Gwaltney and had submitted prices to Gwaltney that were considerably more attractive to Gwaltney and presumably and had been awarded Gwaltney's business. Weyerhaeuser naturally was unhappy that they no longer had the business. I believe we admitted that [Tr. A-400] we had taken it at a lower price, or Continental did.

Mr. Helms: I can't hear what the witness says.

The Witness: I had just come with the company and this action had taken place beforehand and that was the general gist of the conversation.

By Mr. Bernstein:

Q. Did Mr. Groner participate more in the conversations than you did?

A. I wouldn't say that he did more or less.

Q. Was any statement made concerning the conduct of Continental Can regarding the receipt of market information and quoting a more favorable price?

A. Well, in this instance I think we are or Continental, in effect we stated that we wanted to get the account back, that is the reason we had quoted a lower price. We wanted the business.

Q. Get it back from whom?

A. From Weyerhaeuser. They were supplying them before.

Q. What did Weyerhaeuser say with regard to it?

A. Well, they actually didn't have much to say. They subsequently made an attempt to take the account back but they were just a little indignant that we had taken this account.

Q. Was your office at Richmond at the time?

A. Yes, sir, I had just gone with the company.

Q. And Mr. Groner's office was where?

[Tr. A-401] A. He was at Richmond.

Q. How about the two gentlemen from Weyerhaeuser? Where were their offices?

A. Baltimore.

Q. What were the circumstances under which you met at the Marriott Motel?

A. Well, I am not exactly sure. It seems to me we drove up there.

Q. By pre-arrangement? Did you expect to meet them there or was it an accidental meeting?

A. No, I think they had called us and said they were going to be there or something and wanted to know what we had done. I am not sure, because, as I said, I had just come with the company and apparently they had, apparently this arrangement was made somehow. I just can't say for sure exactly how it was because I was just coming with the company and I was sort of going along for the ride.

Q. Are you able to state whether it was the purpose of the meeting to explain what had occurred with regard to the quotations submitted to the Gwaltney account?

A. I guess basically that was the purpose of it, yes.

Q. What was explained on behalf of Continental Can?

A. I think that perhaps Continental had previously denied that they had quoted a lower price and possibly now admitted it.

.

[Tr. A-402] Q. Do you recall any other meetings with competitors concerning quotations to customers after 1961?

A. I don't recall any more, Mr. Bernstein.

Q. Do you recall any meetings concerning set up charges other than the ones that we have already discussed prior to 1961?

A. No, sir. I don't recall any.

.

Q. To your knowledge, have there been any price lists for distribution to customers concerning the price of other corrugated shipping containers.

A. You mean other—

Q. —Than apple boxes.

A. Yes, sir.

Q. What were those?

A. We prepare price lists of transfer and storage containers, or we have in the past.

Q. What company was that?

A. Continental.

Q. What about can boxes?

A. Definitely can boxes. I forgot that. I guess that is the major list that we publish.

Q. Does Continental publish that price list?

[Tr. A-403] A. Yes, sir.

Q. And banana boxes, does Continental publish a price list?

A. We have published a price list locally in my district. I don't think it is like the can list but wide in scope.

Q. How about transfer storage boxes?

A. We have done that locally in our district.

.

Q. Did you mail those lists or make those lists available to any of your competitors?

A. I probably did. I probably mailed them to my competitors around Richmond, nearby. We sold these boxes in Virginia mostly.

Q. What was your purpose in mailing?

A. Well, it was simply to advise the market, sellers and buyers, of our prices.

Q. Did you do the same thing with banana boxes?

A. I think we did.

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[Tr. A-301]

Monday, March 2, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendants: Each of the Defendants was represented by one or more counsel as appears of record, with the exceptions as stated by Mr. McNeill Smith.

DEPOSITION OF ROBERT GRONER, JR.

(PX-17)

[Tr. A-302] Q. What is your present occupation, Mr. Groner?

A. I am self-employed.

Q. In what business?

A. Consultant.

Q. In what industry?

A. Corrugated.

Q. And by whom or with what company were you last associated?

A. Continental Can.

.

[Tr. A-303] Q. When did you retire from the Continental Can Company?

A. On March 31, 1963.

Q. And at the time of your retirement, what position did you hold?

A. I was the Regional Sales Manager, of the Southern District.

Q. And would you describe your duties in that capacity?

A. I was in charge of seven sales offices, one located in Richmond, Martinsville, Atlanta, Jackson, Mississippi, New Orleans, Tyler, Texas, Aida, Oklahoma.

Q. And were there certain specified plants of Continental Can that furnished the corrugated shipping containers sold by those offices that you mentioned?

A. Yes, there was a plant at each location.

.

[Tr. A-304] Q. What responsibility, if any, did you have in connection with pricing during the period up through March 31, 1963, when you were Regional Sales Manager of the Southern [Tr. A-305] District?

A. Well, I have a district sales manager at each location, who actually had charge of the pricing in his district. I was travelling overseer and I went and visited them on a fairly frequent schedule, and, of course, general policies were supposed to be laid down by me.

Q. And did your company, during the period when you were Regional Sales Manager of the Southern District, have any general policy concerning the exchange of information with any competitor concerning a price charged a specific customer?

A. Well, I don't recall the company had any general policy on that subject at all. We left that entirely to the jurisdiction of the district sales manager.

.

Q. Do you recall, Mr. Groner, whether you had any knowledge about that price increase in or about July 24, 1961?

A. Yes. Whenever a plant operates at capacity the first thing you do is weed out the dogs and keep the better stuff. In that way you will automatically raise your general price level. I also believe, I am not quite positive, there was a paper increase about that time or just before that and normally we try to inject the increase in raw material into the price.

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[Tr. A-308] Q. Mr. Groner, I show you the complaint filed in this action and ask you to state whether or not you personally gave or received information from the representatives of the defendants listed in this complaint concerning the prices that your company charged a specific customer for corrugated containers or concerning the price that such competitors charged a specific customer for corrugated shipping containers and ask you to do that, each defendant separately.

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The Witness: Container Corporation of America, I have talked to Bill Colvin, J. D. Evans.

Albemarle Manufacturing Company, A. J. Bagley.

Carolina Container Company, to the boy who owns it—
[Tr. A-309] I will come back to that one.

Crown Zellerbach, Lee Ross.

Dixie Container, Herb Mitchell.

Dixie Container Company of North Carolina, I never talked to them.

Inland Container, Barney Roberts.

International Paper Company, Hugh Reid.

Mead Corporation, Virgil Shutze.

Miller Container Corporation, Kyle.

Owens-Illinois Glass, Rosenbaum.

St. Joe Paper, not at all.

St. Regis Paper, Diggs.

Tri-State Container Corporation, Alan McDonald.

Union Bag-Camp Company, Butler.

West Virginia Pulp and Paper, Orcutt.

Weyerhaeuser and Waterbury, I haven't talked to them.

Q. Do you know Mr. C. T. Ingram?

A. Ingram, that is the man's name.

Q. From what company,

A. Carolina Container.

Q. Do you know Mr. Diggs' first name at St. Regis?

A. I think it is William; they call him Bill.

Q. Do you know Butler's first name at Union?

A. John.

[Tr. A-310] Q. And could you specify during what period of time you spoke to these individuals concerning a price charged a specific customer or a price they charged a specific customer?

A. Well, some of them go back to the beginning of my tenure in this business. Like Bill Colvin, I have known ever since I have been in the business, and quite a few others. Some of them came later. They weren't in the business at that time.

Q. Was this during the period of time when you were regional manager of the southeastern district?

A. Both as local manager and regional manager, yes.

Q. So that would cover the period of time?

A. 1940 to 1963, less three years I was in Cleveland.

Q. And how were most of these conversations carried on, by phone or in person or by mail?

A. Telephone mostly, and sometimes you would meet them around various places, at box meetings, and talk to them.

Q. What were the occasions when you would request a price concerning a specific account?

A. Well, if I had no idea as to a price, I would try to get some idea from them.

Q. How would you ascertain who to call, which competitor to call?

A. Well, the salesman always gives you or gives his local manager on a sales call information, who is his competition [Tr. A-311] in the account.

Q. How does he ascertain that?

A. He asks the buyer.

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Q. Well, was it the general rule that you knew that—you knew what the competitor was charging a specific customer?

A. As a general rule you know.

Q. How did you know that?

A. That is experience, it is what you get paid for.

Q. And did that information come to you from the competitors in these telephone calls?

A. Sometimes competitors, and sometimes from the buyers.

Q. On what occasions would you seek it from a competitor and not from a buyer? Where there any occasions?

A. There are a lot of times you seek them from both and you always try to know as much as you can possibly know.

Q. And what would you do with the information when you got the information from a customer and you also got the information from a competitor, what would you do with that information?

A. Well, if they had the same, you would know it was correct and if it was different then you had to decide which one was lying.

Q. And on those occasions where they were the same, then what would you do?

[Tr. A-312] A. You would know that that was the price, and then you could either cut it, or raise it, or quote the same.

Q. And did you personally have any policy with respect to whether you would quote it, or cut it or quote the same on those occasions where the customer's information coincide?

A. No, that was generally left to the district sales manager and how much he needed business to run his plant.

Q. And how about you personally, sir, during the period of time that you had responsibilities?

A. If I needed the business, I would cut it.

Q. And on those occasions that you did, did you inform the competitor from whom you had received the information?

A. Nope.

Q. Had there been any change in your company's practice of exchanging this information, as of March 31, 1963, when you retired?

A. No, not that I know of.

Q. And what if anything can you tell us about the frequency with which you would make or receive these telephone calls during the period when you were regional sales manager?

A. They were very infrequent, when I was area sales manager, because you left that up to the district sales manager.

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[Tr. A-313] Q. Since 1940 your company used the Inland manual recently; is that correct?

A. No, that is not correct, because in different areas you use different manuals.

Q. Let us take Southeastern United States and that means the States that I enumerated.

A. Yes.

Q. Florida, Virginia, North Carolina, South Carolina, Georgia, Alabama, Tennessee, and Kentucky. Was there one manual used by your company from 1961 to 1963?

A. No.

Q. Which manuals did they use?

A. Used both the Old Dominion and Inland.

Q. Where did they use Old Dominion and where did they use Inland?

A. Old Dominion was used in Virginia.

Q. Inland was used in the other States?

A. Yes.

Q. When you gave or received information concerning Virginia, did you indicate that this applied to the Old Dominion manual?

A. No.

Q. Was it important for you to know whether it did or did not?

[Tr. A-314] A. No.

Q. Supposing someone were using the Inland manual. Would that make any difference?

A. It would break back to approximately the same price.

Q. Prior to the Inland manual in the Southeastern States, other than Virginia, what manual was used by your company?

A. I think preceding the Inland, the Kipnis or National manual was used.

Q. National Container?

A. Yes.

Q. How about the Old Dominion?

A. I don't think that was ever used extensively other than in Virginia.

Q. How about the Gaylord manual?

A. That was used for a short time.

Q. In what States?

A. In the South; all over the U. S.

Q. In the Southeastern U. S.?

A. Yes.

Q. Except Virginia?

A. No, I think we even used it in Virginia.

Q. Is it true that the Gaylord manual was replaced in Virginia by the Old Dominion?

A. I think that is correct.

[Tr. A-315] Q. Do you recall any occasions when you informed a competitor of a price that your company was charging a specific account without the request for that information having been received from a competitor?

A. No.

Q. At one point you were asked something about Continental Can's policy with respect to communications. You are familiar with the 1940 consent decree, are you not?

A. Yes, sir.

[Tr. A-316] Q. Did the company have any policy that you know of with respect to that?

A. We are supposed to abide by it.

[Tr. A-61]

Thursday, March 12, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Skaney, Antitrust Division, Department of Justice.

For the Defendant, Tri-State Container Corporation: D. Newton Farnell, Jr., James A. Weller.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; and Carolina Container Company.

DEPOSITION OF WILLIAM B. BEAMS

(PX-6)

[Tr. A-64] By Mr. Freeze:

Q. With which concern were you connected prior to March, 1963?

A. Tri-State Container.

Q. And for how long, sir?

A. I began with Tri-State on May 15, 1962.

Q. In what position?

A. As a part-time sales representative for Tri-State Container and at the same time, renewing contracts of mine in the hope of bringing in some business to the new plant that we were beginning to build in Martinsville.

Q. Now, with whom were you employed before May, 1962?

A. Continental Can Company, Incorporated.

[Tr. A-65] Q. Now will you tell me again what was your position again with Continental Can?

A. With Continental Can I maintained the title I had of Division Manager for possibly eighteen months and in that capacity I had charge of both sales and production. In about April of 1958—excuse me—sometime in the next ten

or twelve months Continental's policy was to separate sales and production and I was asked which I preferred to do, be a plant manager or a sales manager and I chose sales. I was sales manager at Martinsville by title from possibly May of 1957 until about April of 1958 and the sales manager of Richmond was transferred to New York and we had what I term a stretch out program and I inherited the Richmond sales district as sales manager as well. Then January 1, 1962, I was made a regional sales manager with transfer to headquarters in Jackson, Mississippi.

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[Tr. A-67] Q. During the time you were employed with Continental Can Company, did you have occasion to use any form of manuals in connection with computing prices?

A. Yes.

Q. Would you designate which manual or manuals you may have used?

A. Basically they are all the same, all that I have ever seen. This dates back to when I started in the business, we had one, I don't know whose it was or where it came from, but it looked like the same ones I see today with minor changes reflecting inflation or what have you, cost of materials, and so forth.

I have had in my possession the National Container Manual, the Old Dominion Manual, the Gaylord Manual, Inland Container Manual, and company manuals, either cost manuals or estimating manuals.

Q. In connection with the National Container Manual, the Gaylord Manual, and the Inland Manual, were these used at different periods or interchangeably during the same period?

A. Basically my people—not basically—my people [Tr. A-68] were always instructed to use the more simple one, which was the National Manual, which was very much tailored along the lines of the one to which we had been accustomed.

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Q. Mr. Beams, during the period when you were employed with Continental Can Company, were you requested

by any competitors or their representatives to furnish price information on specific jobs?

A. Yes.

Q. Did you on those occasions furnish such information?

A. Yes.

Q. Would you tell us, please, where you acquired the information to supply the person requesting it?

A. Well, we had sales record cards. They changed from time to time, but each individual specification had a card with certain pertinent data about the box, its style, how it was printed, how it was bundled, the delivery, and so forth, and the price could have been on the card in one way, a base price plus set-up, or in certain quantities, whichever the customer might have requested that we quote or supply.

Q. Mr. Beams, when you received such a request, was the request for the most recent price at which you had sold to a specific customer?

A. Yes.

Q. Was this confined to a sale which had been [Tr. A-69] consummated or did it also include cases where you had merely made a quotation but for some reason may not have completed the sale. First—

A. Will you repeat your question, please?

Q. Yes. I asked was this price information which you supplied confined to completed sales, or would you give information where your employer may have quoted but for some reason may not have completed the sale?

A. It would depend on what the man asked for.

Q. Am I to understand that depending on his request you might have furnished either?

A. Depending on his request, I might have furnished either.

Q. Now, on these occasions was the information in terms of an end or overall price or in any other terms?

A. What he asked for.

Q. Other than an end or overall price in what other form is this information given?

A. Well, he could ask me for a level in an account. Do you mind if I inject a hypothetical situation?

Q. I will be glad to have you do that.

A. Let us say the customer has 500 boxes that he buys—

this is not unusual. Rather than his asking me 500 end prices, he would probably ask me, "What is your level?"

Q. Now, Mr. Beafns, on these occasions, when you supplied [Tr. A-70] this information to representatives of your competitors, did you always give accurate information as disclosed in your files?

A. Yes.

Q. Did you, during this period, while you were with Continental Can Company, request similar information from representatives of your competitors?

A. Yes.

Q. On these occasions, was the information given in the form of an end or overall price or in other forms?

A. Well, this is dependent on what I was seeking, how the customer bought the boxes. He had probably told me to quote him in one thousand lots, two thousand lots, three thousand lots, or twenty thousand lots, or he might have requested that we quote him base plus set-up. Then I asked for the information I wanted.

Q. Mr. Beams, again referring to the companies named as defendants in this action, I would like to have you, as I read each company, tell me the names of any persons, to the best of your recollection, who have requested price information on specific jobs from you during this period. Is that clear?

A. And the period?

Q. The period when you were with Continental Can.

A. Well, bear in mind before I answer that there have been many changes in management in all of these companies, [Tr. A-71] and I will answer this to the best of my ability.

Q. Container Corporation of America.

A. As we know Container today—let us confine ourselves to the period not past October 14, 1963.

Container Corporation of America, Mr. J. D. Evans, Adolph Clay, Mr. Norman Alday, perhaps a Mr. Theabold.

Q. Now have you also requested information as to specific jobs from these persons?

A. Yes, I would say I have.

Q. Albemarle Paper Manufacturing Company.

A. Mr. Maury Dozier and Mr. A. J. Bagley.

Q. In respect to these two individuals, have they re-

quested from you price information on specific jobs?

A. Yes.

Q. And have you requested such information from them?

A. Yes.

Q. Carolina Container Company.

A. Mr. Holbrook, Mr. Ingram, and Mr. Webster.

Q. Now have you both given price information on specific jobs to these individuals and received it, also?

A. Yes.

Q. Crown Zellerbach Corporation.

A. Mr. Lee Ross, Mr. George King, and Mr. Gordon Clark.

Q. And in connection with these individuals have you both given price information on specific jobs and received [Tr. A-72] price information on specific jobs from these individuals?

A. Yes.

Q. Dixie Container Corporation.

A. Mr. H. L. Mitchell, at one time Mr. J. B. Johnson, Mr. Ernie Downes, and Mr. Schwind.

Q. Now in connection with these individuals, have you received this information from them and also given similar information to them?

A. Yes.

Q. Dixie Container Corporation of North Carolina.

A. I am sorry, I included Mr. Schwind.

Q. Inland Container Corporation.

A. Yes. Mr. Roberts, Mr. Hogan and Mr. Davis.

Q. And in the case of each of these individuals have you both received price information on specific jobs and given it?

A. Yes.

Q. International Paper Company.

A. Mr. Reid and Mr. Ennis.

Q. And also as to these individuals have you both given and received price information on specific jobs?

A. Yes.

Q. The Mead Corporation.

A. Mr. Wainscott and Mr. Pridgeon. I have forgotten the period but I could say Mr. Bloom.

[Tr. A-73] Q. As to these individuals, have you both received and given price information on specific jobs?

A. Yes.

Q. Miller Container Corporation.

A. Mr. Kyle, Mr. Noftsinger.

Q. And you have both given and received price information on specific jobs as to these individuals?

A. Yes.

Q. Owens-Illinois Glass Company.

A. Mr. Rosenbaum, Mr. Brittain.

Q. And you have both given and received price information on specific jobs in these companies with these individuals, have you, sir?

A. Yes.

Q. St. Regis Paper Company.

A. Yes. Mr. Diggs and a Mr. Petrie.

Q. Would that include instances where you have both given and received price information on specific jobs?

A. Well, I don't remember any, but it is conceivable.

Q. As to Mr. Diggs, is it your best recollection that you have given price information on specific jobs?

A. Yes.

Q. Is it your best recollection that you have or have not received such information?

A. I have.

[Tr. A-74] Q. Mr. Beams, is it your best recollection that you have or have not given information on specific jobs, to Mr. Petrie?

A. I have.

Q. What is your best recollection as to receipt of such information?

A. To my best recollection I have received information.

Q. Tri-State Container Corporation.

A. Mr. Alan McDonald.

Q. And in the case of Mr. McDonald, have you both given and received price information on specific jobs?

A. Yes.

Q. Union Bag-Camp Paper Corporation.

A. Mr. Butler, now deceased, Bob Day, Frank Grimes, and Mr. Pritchett.

Q. As to those individuals, have you both given and received price information on specific jobs?

A. Yes.

Q. West Virginia Pulp and Paper Company.

A. Mr. Dave Orcutt and Mr. Alan Holt.

Q. As to these individuals, have you both given and received price information on specific jobs?

A. Yes.

Q. Weyerhaeuser Company.

A. Mr. Ivan Wood, Mr. Clayton, and Mr. Elliott, and [Tr. A-75] Mr. Hinshaw.

Q. Now, as to these individuals, have you both received and given price information on specific jobs?

A. Yes.

Q. Mr. Beams, in clarification of the question which has been asked, in regard to the individuals which you have identified in your testimony as to these previous companies, as to these other defendants in this action, in all instances to which we have referred was the price information the most recent price charged or quoted to a specific customer?

A. It could have been either, depending on what the man asked for.

Q. Either?

A. Yes.

Mr. Farnell: But they are all relative to specific customers.

The Witness: That is true. I think there is an inference here that all boxes are bought on a bid, when a man needs boxes, when you say a specific job. There is perhaps a little difference in terminology.

[Tr. A-78] Q. Mr. Beams, on these occasions when you either gave information, price information, regarding specific customers or received such information, did this take place by telephone or personal encounter or both?

A. Generally, by telephone.

Q. Did this involve long distance calls at times?

A. Yes, it did.

Q. Will you tell us about any occasions other than telephone where such price information was either given or received by you?

A. Well, in traveling to meetings, whether they were formal Fibre Box meetings or other meetings, wherein we had an interest and you might have to fly three or four hundred miles to spend a night, you naturally ran into not only competitors, they were competitors and friends—actually, there was a man here yesterday testifying that I used to sell boxes to who was a purchasing agent, so he has been a friend for a long time. You meet where you are staying, so and so, you are away from home. "Come have a drink," "Meet you in the bar," three or four other friends and competitors come in and you sit down and shoot the bull.

I guess, naturally, your business being boxes, you probably talk boxes, you might talk about a specific customer [Tr. A-79] and his price because we might have reason to believe that the customer is trying to trick both of us and that he wants a better price than he deserves and we might say he told us you did so and so, did you? Or what is your level? I mean this could come up in a personal contact as easily as on the telephone.

[Tr. A-493]

Friday, March 13, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Miller Container Corporation: Robert P. Buford, Richard G. Joynt, Charles F. Blanchard.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Carolina Container Company, St. Regis Paper Company and Waterbury Corrugated Container Company.

DEPOSITION OF W. M. NOFTSINGER

(PX-25)

[Tr. A-494] Q. Mr. Noftsinger, will you state your full name and address, please?

A. William Martin Noftsinger, 726 Wildwood Road, Roanoke, Virginia.

Q. Your employer and your business address?

A. Miller Container Corporation, 802 Kyle Avenue, Roanoke, Virginia.

Q. Mr. Noftsinger, will you trace for us the history of your employment with Miller, positions, dates and places?

A. I first came with Miller Container in March of 1955 as Sales Manager. In approximately '57 I was made Secretary of the Corporation and Sales Manager. In 1961, October, 1961, I was made Vice President and Sales Manager and in December of 1963, I was made President and General Manager.

[Tr. A-496] Q. Mr. Noftsinger, during this period, have you had occasion to contact your competitors to request the price which they were then charging a specific customer for corrugated containers in the Southeast United States?

A. Yes, we contacted them with respect to the last price they charged the customer, yes, sir.

Q. On those occasions, sir, for what would you ask? How

would you ask for this information?

A. Just about the way you phrased the question to me, sir, what the last price was they charged a particular customer.

[Tr. A-497] Q. During this period, sir, have there been occasions when representatives of your competitors have contacted you to ask for the same information.

A. Yes, sir.

Q. Mr. Noftsinger, I show you a copy of the complaint filed in this action and with reference to the list of Defendants appearing on the first page thereof, I would like to ask you the names of the individuals with each of those companies to whom you have given or from whom you have received the pricing information which you have described with respect to a specific customer during the period to which we have reference.

Container Corporation of America?

A. Bill Colvin, J. D. Evans, and Dolph Clay.

Q. Albemarle Paper Manufacturing Company?

A. Mr. Bagley and Mr. Maury Dozier.

Q. Carolina Container Company.

A. Mr. Ingram and Mr. Holbrook.

Q. Continental Can Company, Incorporated?

A. Mr. Groner, Mr. Johnson, Mr. Beams.

Q. Crown Zellerbach Corporation?

A. Mr. Clark.

Q. Dixie Container Corporation?

A. Mr. Mitchell and Mr. Schwind.

Q. Dixie Container of North Carolina?

[Tr. A-498] A. Mr. Schwind is with Dixie Container of North Carolina.

Q. Inland Container Corporation?

A. Mr. Roberts.

Q. International Paper Company?

A. Mr. Hugh Reid.

Q. The Mead Corporation?

A. Mr. Waincott and Mr. Pridgen.

Q. Owens-Illinois Glass Company.

A. Mr. Rosenbaum and Mr. Brittain.

Q. St. Joe Paper Company?

A. I don't think I have talked with anyone at St. Joe's.

Q. St. Regis Paper Company?

A. I don't recall talking with anyone with St. Regis.

Q. Tri-State Container Corporation?

A. Mr. McDonald.

Q. Union Bag-Camp Paper Corporation?

A. Mr. Wulff, Mr. Pritchett.

Q. West Virginia Pulp and Paper Company?

A. Mr. Orcutt and Mr. Holt and Mr. Ed Bauer.

Q. Weyerhaeuser Company?

A. Mr. Ivan Wood, Mr. George Elliott.

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Q. On what occasions, sir, under what circumstances [Tr. A-499] would you seek this information from a competitor?

A. When I was interested in finding what the past market was in that particular instance.

Q. When would you be interested in that information?

A. When I was trying to verify what the customer may have told me or told one of our representatives.

Q. Would there be any other occasions?

A. Whenever we had the occasion to figure a price for the particular customer, yes, sir.

Q. On those occasions when you received calls from your competitors asking for the price which you were then charging a specific customer, did you give the information requested?

A. Yes, sir; I gave the information, the price at which we last sold the customer.

Q. Did you obtain this information from records in your company?

A. Sometimes, yes. Sometimes from memory.

Q. When you referred to record, to what records, or what records did you use?

A. Our general sales file.

Q. Of what is that comprised?

A. It is comprised of all the accounts that we sold boxes to.

Q. What forms make up this file?

[Tr. A-500] A. We have a pricing form by which we have arrived at the price we have sold the account.

Q. Does this pricing form contain the price of all the various boxes which you have sold to that account?

A. All of the various boxes are on an individual form.

There is one box on each form, yes, sir.

Q. Does this form contain an end price?

A. Yes.

Q. Is this the price which you supplied to your competitor?

A. Yes, sir.

Q. Does this form contain a board level or board multiplier?

A. Yes, sir.

Q. Have there been occasions when you have supplied that figure to your competitors?

A. Yes, sir.

Q. Under what circumstances would you supply one rather than the other?

A. I would say it would probably depend on how many items were involved. If it were a great deal of items, we would probably give the board multiplier. If it was a single item, perhaps an end price. I would not say there was a general rule.

Q. Is there any reason why when there were several [Tr. A-501] items you would probably use the, I don't know what phrase you used, did you say multiplier?

A. Yes, sir.

Q. Is there any reason why when there were several items you would supply the multiplier to your competitor?

A. The only reason I could think of would be convenience and time-saving.

Q. Would this multiplier enable him to compute the price of the several items?

A. Yes, sir, I think so.

Q. How would he be able to do that?

A. We would be able to do it by figuring the multiplier with our pricing manual.

Q. You merely assumed he would be able to do the same, is that right?

A. I would assume so, yes.

Q. On all occasions when you have supplied information to a competitor, did you have knowledge that a sale had been consummated at that price?

A. No, sir, because I didn't know what his price was.

Q. I am sorry. I am not making myself clear. When you supplied the information to a competitor, did you know that the Miller Container Corporation had actually

sold containers to the specific customer in question at that price?

A. No, sir. I did not. We don't sell all the boxes [Tr. A-502] we quote. Sometimes a man was checking to see if we had cut, to verify what a customer may have told him, and we may not have sold at that price.

Q. But you would give this information to a competitor?

A. Yes, sir.

Q. Although you may not have sold at the price?

A. Yes, sir.

Q. On these occasions, sir, was any notation made on your records regarding the phone call you had received?

A. No, sir.

Q. You have no record of these phone calls?

A. No, sir.

Q. On those occasions when you gave this information to a competitor, was it of any benefit to your company?

A. I don't see how it would have been. We didn't make any money by doing so, no.

Q. Did you have any reason for doing so?

A. He had requested it, so we gave it to him.

Q. Did you ever refuse this information?

A. No, sir.

Q. Did you have any reason for not refusing the information?

A. No, sir. I didn't have any reason for not refusing.

Q. On those occasions, sir, when you have obtained [Tr. A-503] this information from a competitor, were you able to use it in computing the price of a box for a specific customer involved?

A. Yes, sir.

Q. Sir, how did these contacts take place between yourself and your competitors?

A. By phone.

Q. Was that on all occasions?

A. Yes, sir.

Q. You have no recollection of having mailed this information to a competitor or having received it from him through the mail?

A. We may have received some through the mail, yes,

sir.

Q. What do you recall about receiving some through the mail?

A. It would come in an envelope from the competitor and it would have been at my request that he had mailed that to me.

Q. Do you recall the competitor who mailed this information?

A. No, sir, I don't.

Q. Would this have been rare relative to the number of instances?

A. Yes.

[Tr. A-504] Q. In those instances where you gave this information to a competitor or obtained it from him by telephone, were long-distance calls involved?

A. Yes, sir.

Q. Both giving and receiving the information?

A. Yes, sir.

Q. On those occasions, sir, when you have obtained from a competitor the price which he was then charging a specific customer for a certain specification, in the majority of instances what price did you then quote to the customer?

A. I quoted a price approximately the same as he had charged the customer.

Q. In the accounts which you serviced during that period were there other suppliers of corrugated containers supplying those accounts at the same time?

A. Yes.

Q. Was that true of all of the accounts which you supplied?

A. I would say it was true of the majority of the accounts.

Q. In some of these accounts was there more than one supplier supplying the identical box at the same time?

[Tr. A-505] A. Yes, sir.

Q. Mr. Noftsinger, at any time during the period from March 1955 when you became sales manager of Miller Container Corporation through October 14, 1963, have you found yourself in the presence of your competitors when the subject of prices of corrugated containers in the South-eastern United States was mentioned?

A. Yes, sir.

Q. What do you recall about those occasions, sir?

A. Well, on one occasion it was a firm advised that they had reduced their price some week before on a particular account.

Q. Which firm was that that advised you?

A. That was West Virginia.

Q. Which account was that?

A. Hygrade in Richmond.

Q. Do you recall what was said on that occasion by the [Tr. A-506] West Virginia representative?

A. No, sir, I don't. That was the result. What he actually said I don't recall.

Q. Do you recall approximately how many people were present?

A. Four or five—from four to ten, let me put it that way.

Q. Do you recall that anyone commented after they had been advised of this decrease?

A. No, sir.

Q. Do you recall the circumstances under which this meeting took place? Do you recall where it was?

A. It was in Richmond.

Q. Where in Richmond?

A. At a hotel.

Q. Do you know the hotel?

A. No, sir, I can't say that I do know the hotel although from previous testimony before the Grand Jury I think it was the Raleigh Hotel and I believe that is where it was.

Q. I would only ask for your own recollection.

A. I don't recall which hotel it was.

Q. Do you recall approximately how long the meeting lasted?

[Tr. A-507] A. No, sir, I don't.

Q. Do you recall arriving at the parlor room?

A. No, sir.

Q. Do you recall leaving?

A. I left but I don't recall the circumstances when I left.

Q. Do you have any recollection of leaving? Did you arrive in the company of another person?

A. I don't recall.

Q. Do you recall whether another person left at the time you did?

A. No, sir, I don't.

Q. Prior to this meeting and within, let us say, a month of that meeting had you had occasion to call the West Virginia Pulp and Paper Company regarding that account?

A. Not that I know of, not that I can recall.

Q. Had anyone from West Virginia called you?

A. Not that I recall, no, sir.

Q. Do you recall the amount of the decrease that was announced?

A. I think it was five percent.

Q. Do you recall what action you took subsequent to this meeting with regard to the Hygrade account?

[Tr. A-508] A. Yes, sir, I reduced my prices in order to continue to serve the account.

Q. Do you recall the amount of the decrease that you made?

A. No, sir, but I would assume it would be approximately five percent because I think we were competitive prior to the decrease and I was competitive afterwards.

Q. Do you recall any other occasions when you have been in the presence of your competitors during this period when the subject of price was mentioned?

A. On one other occasion at a meeting in Richmond the subject of price was mentioned. It was more a discussion I think of the recent increase in the cost of liner board, however, the need for a price increase as a result of the increase in liner board prices was mentioned.

Q. Was that a meeting in Mr. Herb Mitchell's office?

A. Yes.

Q. Was Mr. Kyle with you at that time?

A. I don't recall.

Q. Do you recall, sir, whether at that time you indicated—I withdraw that question.

Do you recall whether all the persons present at that time were competitors of yours?

A. Yes, sir, I think they were.

Q. Do you recall, sir, whether at that time you [Tr. A-509] advised what your company planned to do in connection with this liner board increase?

A. No, sir, we did not. We did not advise what we planned to do and no one present, if my memory serves, stated what they would do as a result of this liner board increase.

Q. Do you recall a phone call being made on that occasion?

A. Yes, sir, there was a phone call made.

Q. What do you remember about the phone call, sir?

A. As I recall, the phone call was made to determine whether or not anyone had published a new manual as a result of this paper increase.

Q. Do you recall to whom the phone call was made?

A. No, sir, I do not.

Q. Do you recall the company to which the phone call was directed?

A. I have a recollection that they called Mr. Ingram at Carolina Container to see if he had received such a manual or manuals. His answer was negative.

Q. Do you recall who made the phone call?

A. No, sir, I don't.

Q. Do you recall that when the phone call was first made the person making the call was unable to reach the party that he was attempting to reach?

A. No, sir. He did talk to Mr. Ingram, as I recall.

[Tr. A-510] Q. Do you recall waiting for a party that had been called to return the call?

A. No, sir.

Q. Do you recall whether subsequent to that meeting and within, let us say, not more than two months, your company attempted to increase its prices?

A. No, sir, I don't recall whether there was an increase

following that. I don't recall. I know there was no increase as a result of that meeting.

Q. Sir, were there any other occasions which you recall when you were in the presence of your competitors and the subject of prices was mentioned during the period in the complaint?

A. No, sir.

[Tr. A-350]

Friday, March 6, 1964.

APPEARANCES:

For the Plaintiff: Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Carolina Container Company: W. P. Sandridge, Sr., W. F. Womble.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF C. T. INGRAM, JR.

(PX-20)

[Tr. A-352] Q. Mr. Ingram, will you please state with whom you are presently employed?

A. Carolina Container Company, High Point, North Carolina.

Q. Now, I would like to cover your employment up to a period ending October 1963. As of that date, were you in your present position?

A. Yes, sir.

Q. What is the title of your present position?

A. Vice President, Treasurer and General Manager.

Q. How long were you in that position up until October 1963?

A. Ten years, with that title.

Q. And prior to that were you with the same employer?

[Tr. A-353] A. Yes, sir.

Q. In what position?

A. Assistant Treasurer and Assistant Manager.

Q. And for how long?

A. I would say 15 years or more.

Q. Now, does this period which you have covered cover your entire business career in the container industry?

A. I have been in the container business approximately 31 years with the same company.

[Tr. A-356] Q. Do you recall how you acquired that manual?

A. I do know that one of our larger customers gave us a copy of this manual when this first came out. As I say, I don't remember the date. We did secure one from Inland Container Company, also.

[Tr. A-359] Q. Mr. Ingram, in determining prices to be quoted to customers or prospective customers do you at times or have you at times contacted representatives of your competitors?

A. Yes, sir.

Q. Could you tell us for what purpose we have been contacted?

A. First, Mr. Freeze, I might clarify that. I have talked to some of our competitors in a very rare case but I am not too active in sales but I do know a little bit about what is going on but the calls that I have made or that have been received were to get a past market price.

Q. Again, I would like to go through the companies listed as defendants in the complaint and request that you indicate, as I read each company, which company, which [Tr. A-360] defendant employees have been contacted by you or have contacted you to give or receive a price for a specific customer? Is that clear?

A. Yes, sir.

Q. May I add, during the period 1955 to 1963?

A. Yes, sir.

Mr. Sandridge: You mean personally?

Mr. Freeze: Yes, sir, I am asking personally.

By Mr. Freeze:

Q. Container Corporation of America?

A. Yes, sir.

Q. Would you indicate what individuals?

A. Yes, sir, Mr. Bill Colvin and J. D. Evans.

Q. Albemarle Paper Manufacturing Company?

A. Tony Bagley.

Q. Is he the only one you recall?

A. There is another fellow that I might have talked

with. Dozier, I believe, Mr. Dozier possibly. I am not sure.

Q. Continental Can Company?

A. Yes, sir, Mr. Robert Groner, Mr. Bill Beams when he was with that company and Mr. Johnson.

Q. Crown Zellerbach Corporation?

A. Yes, sir, Mr. Gordon Clark.

Q. Dixie Container Corporation and Dixie Container Corporation of North Carolina?

[Tr. A-361] A. Herb Mitchell.

Q. Inland Container Corporation?

A. Mr. Barney Roberts and Mr. Frank Talbot.

Q. International Paper Company?

A. Mr. Hugh Reid and Spike Ennis.

Q. The Mead Corporation?

A. Bob Wainscott.

Q. Miller Container Corporation?

A. Mr. Harold Kyle.

Q. Owens-Illinois Glass Company?

A. Mr. Ken—I can't think of his last name. He is the General Manager in Salisbury.

Q. Would it be Rosenbaum?

A. Rosenbaum, yes, sir, and Mr. Brittain.

Q. Now have you had any contacts with representatives of St. Joe Paper Company?

A. No, sir.

Q. Have you had any contacts with St. Regis Paper Company personally?

A. Yes, Mr. Bill Diggs.

Q. Tri-State Container Corporation?

A. Yes, sir, Alan McDonald.

Q. And Union Bag-Camp Paper Company?

A. Yes, sir, Mr. John Pritchett, Ed Faulkner and Mr. Frank Grimes.

[Tr. A-362] Q. West Virginia Pulp & Paper Company?

A. Yes, sir, Mr. Alan Holt.

Q. Weyerhaeuser Company?

A. Mr. Ivan Wood and another that I can't recall. It might be Elliott.

Q. What contact did you have with the personnel of the Old Dominion Box Company when they were in the container business, if any?

A. Mr. Ernest McKorkle and Ivan Wood.

Q. Have you had any contact with personnel of the Waterbury Container, Corrugated Container Company?

A. Yes, Joe Reynolds.

Q. Mr. Ingram, previously, when I started through this list I indicated to you I believe that the contacts I was asking you about were concerned with instances when either you had received or given a board level, I mean, a price, pricing information, concerning a specific customer. Was that your understanding?

A. Will you state that again, Mr. Freeze? I lost you about in the middle of it, I am sorry.

Q. Yes, I said just before I read the list of [Tr. A-363] defendants the last time I asked you to indicate to me which companies and personnel you had had contact in connection with the giving or receiving of price information on specific customers?

A. Yes, sir.

Q. Was that clear to you?

A. Yes, sir.

Q. Now the names you gave me and the companies were on that understanding, is that right?

A. Yes, sir.

Q. Now, Mr. Ingram, concerning ourselves just with occasions when you gave or supplied a representative of a competitor this type of information, would you indicate where you obtained the information to give him?

A. Where we had received this information?

Q. Yes.

A. Well, our salesmen make a very comprehensive report on every call that they make. When a customer of ours requires a quotation our salesmen send in this report, giving the size and complete specifications and tests of the carton that we are to quote on. That is how we arrive at the size of the carton. And at the price we charge, if we have been selling the customer within the last few months or the last prices that we have sold him, if we think that is the market price that is the price we charge.

[Tr. A-364] Q. I am afraid you didn't understand my question. Perhaps I did not phrase it clearly. What I

was asking is this. If you receive a request from a competitor or their representative for pricing information from what source in your own operations do you obtain the information that you gave him?

A. We have a record of every carton we have sold a customer. One customer may have a hundred sizes. On that is a complete estimate on that card. As I say, I very rarely do this but our sales manager keeps up with it, I am not too well informed on it—I apologize for my ignorance on it—but a complete record is listed there, the price we charge that customer, and that is what we refer to. That is how we base our prices.

Q. Realizing that perhaps this is not primarily in your responsibility, how long do you keep this data in years?

A. Well, as long as the customer has the size; now, actually, we started our operations in 1928 and 1929 and we have some card records there that are that old with the records on them.

Q. When you have been requested in the past for a board level or an end price do you supply the current or most recent price?

A. We supply our past market price to our competitor when he requests it.

[Tr. A-365] Q. Would that be your most recent price?

A. It certainly should, yes, sir.

Q. Do you give him the actual price as you have it?

A. The actual price or the actual base?

Q. Well, whatever he asks for?

A. Whatever he asks for. If he asks for the base we will give him the base. If he asks for the price we will give him the price.

Q. As shown in your records?

A. Yes, sir.

Q. Mr. Ingram, in connection with this most recent price which you have stated you do give to competitors at times, is this price restricted to completed sales or might it be made where you have merely made a quotation but not completed a sale?

A. Well, that can be answered several ways. A regular customer of ours we have been selling him all along and supposing he has a new box, we would certainly quote him on the same basis that we have sold him before.

Q. Now have you personally requested this same type of information from competitors?

A. Yes, sir.

[Tr. A-328]

Friday, March 6, 1964.

APPEARANCES:

For the Plaintiff Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Carolina Container Company: W. P. Sandridge, Sr., W. F. Womble.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF CARTER HOLBROOK

(PX-19)

[Tr. A-329] Q. Will you state your full name and address for the record?

A. Carter T. Holbrook, Jr., 1007 Emery Circle, High Point, North Carolina. E-m-e-r-y.

Q. Your employer, sir?

A. Carolina Container Company.

Q. Your position?

A. Sales Manager.

Q. For how long have you been employed in that position?

A. Ten years.

Q. Mr. Holbrook, who, specifically, has the authority to decide on a price in your company?

A. Ours is a small, independent company. We possibly do things different from larger companies. It is a joint understanding between Mr. Ingram and myself. He is appraised on anything that is different, anything that needs special attention. It is a joint decision.

Q. But between the two of you, you share the pricing [Tr. A-330] authority?

A. We share the authority, yes.

Q. Does anyone else have the authority?

A. No, sir.

[Tr. A-333] Q. Mr. Holbrook, do you recall the occasion of the publication of the Old Dominion Manual?

A. Yes, sir.

[Tr. A-334] Q. What do you recall regarding this?

A. Well, Eddie Dillard, I guess his title was General Manager, of Old Dominion, and his lawyers there too, stated on the table were copies of a pricing manual which he, himself, his company was going to follow. They were going to use that manual. If anyone wanted to pick up a copy of it they could.

Q. Do you recall anything further regarding his remarks?

A. No, sir.

Q. Do you recall whether anyone else spoke at this time?

A. No, sir.

Q. Do you recall taking one of these manuals?

A. Yes, sir. We, as a small, independent company, followed the market conditions, we try to do a real good job of hiring salesmen, we have honest, clean-cut boys, we try to teach them how to sell boxes, how to engineer boxes, how to design them, we try to do a real fine job of servicing on our account because we are small, we have no big friends. We have real confidence in our salesmen's ability. But, we have found over the course of time we must be competitive to sell anyone regardless of whom we know. We picked up one so that we would know what Old Dominion was doing.

Q. Was it your intention, at the time, to follow that manual?

A. We discussed that and decided we would sort of play [Tr. A-335] it by ear and if the manual looked like it was taking hold, if other people might be using the same pricing formula, we thought it might be wise for us. We tested the market first.

[Tr. A-337] A. We might have asked for past market from someone.

Q. When you say, "Past Market," sir, what do you mean?

A. Poor English, I suppose. It is the price that boxes sold at. It is the price that someone is selling various cartons for.

[Tr. A-339] Q. Where did you obtain the information that you did give to your competitors?

A. Each customer has a file. In that file are small cards approximately 5 by 7, a white card. That card is the history of that particular box. One customer might have one [Tr. A-340] size, other customers might have 50, a hundred or more furniture accounts.

Each side has a record. On that card is located the complete specifications of the box, that is specifically the size, the test, the joint, the printing, any extras like hand holes, that kind of thing, how we put the box up, bundling. Palletizing, unitizing, and then also it has the price, that is the estimate. On the reverse side of that card every time we enter an order we note down the date, our own internal factory order number, our identification number, the quantity the customer ordered and the price we charged that customer. When I receive the call I have in my office two girls and one of them comes over and I either write the name down or stop and tell them and they get that information and bring it back.

I look at the cards, reverse them over, see what the last sale was, and give that past information. That is our standard practice.

Q. Has this happened, sir, that you have been asked to give information regarding a customer and there has been a change in his price but yet no sale has been consummated?

A. Yes. In that instance, however, if we have made a change in the price—we have we believe a good group of salesmen who are well trained and follow instructions—when we have a change in price we immediately contact our salesmen [Tr. A-341] and they contact the trade. We do not send out written notices or things like that. It may be that we have had a change in price. The salesman has told the customer and we have not consummated the sale but the customer is aware that his price is changed.

Being a little office and having very few people in the office, we can't naturally estimate every card we have on a moment's notice. It takes time.

Q. Would you have any way of knowing whether or not the salesman had actually delivered the price to the specific customer?

A. Yes, sir.

Q. How would you know this?

A. This is the one thing I am most strict about. We have a small form about three inches high and about six inches long that can be put in the salesman's pocket and they write up every call they make. It does not have to be an epistle, it can be short but it has the pertinent facts about that account. And they mail them daily as I say that is the thing I get upset the most when they don't come in daily because from that information I am able to glean what is happening over the entire area. Now our customer will tell us what the story is. Sometimes we believe them, most of the times we do. Sometimes we are skeptical of the information they give us.

[Tr. A-342] Q. Do you have a policy that the price must have been delivered to the customer before you will give it to a competitor?

A. As a small company we don't set up a whole lot of policies. We have no written policies about anything. Mr. Ingram's office is next to mine. We just holler back and forth all day long or go in. As a general practice it might be that way, yes. It might be that we have had a change and the salesman has not had enough time to get around to everybody.

It is possible.

Q. It is possible that the price would not have been delivered at the time you received the request for information?

A. Possible to this extent. If we were to advise when we make a change—for instance if we were to advise the customer a month ahead we would have more production than we could possibly get out, more customers buying up and the next month we might not be running anything.

Q. It is possible that a price would not have been delivered at the time that you would give it to a competitor?

A. It would be a rare circumstance but it is possible.

Q. On the occasions of your having received these calls have you ever given false information?

A. No, sir, I might add to that, I only give what I am asked.

[Tr. A-343] Q. Have you ever given a price to a competitor where he did not request the information?

A. No, sir.

Q. Has a competitor ever called you to give you a price where you had not requested the information?

A. No, sir.

Q. On occasions when you call a competitor to request a price—on occasions when you have done this during the period to which we have reference what do you ask the competitor?

A. I ask them for their past market, what they have sold the boxes for. It might be the basis or multiplier or level whatever the term might be or it might be an end price.

Q. When you receive that information, is it a common practice to use that same price in quoting to that customer?

A. We treat each account individually. My job of course is to keep orders in the plant through our sales department and do it at a profitable level or they would not keep me there. There have been times when we have gotten the information when we have given the customer a lower price. There have been times when we have given him the same price and there have been times by virtue of a difficult box to run or maybe we were loaded at the time in the plant, maybe there their credit was poor, maybe the man wanted service that we didn't feel was proper, we quoted higher.

[Tr. A-344] Q. What have you done in the majority of cases?

A. In the majority of cases we have followed the general market.

Q. Would that mean that you have quoted the same price?

A. Yes, sir.

We, however, discuss them and make a decision as to whether or not—we make our own decisions as to whether or not we want to follow that price, make it lower or higher.

Q. Mr. Holbrook, with reference to the defendants named in this action, which is limited to the area which we have termed the Southeastern United States and defined as Virginia, North Carolina, Georgia, Florida, Alabama, Tennessee and Kentucky, and with reference to the period from January 1, 1955 to October 14, 1963, I will name the defendants and ask you to name the persons to whom you have given this information or from whom you have received this price information with regard to a specific customer.

Container Corporation of America?

A. Adolph Clay, Bill Colvin.

Q. Albemarle Paper Manufacturing Company?

A. Dozier. I can't recall his first name.

Q. Carolina Container—

A. That is us.

Q. I am sorry.

Continental Can Company?

[Tr. A-345] A. Bill Beams or John O. Johnson.

Q. Crown Zellerbach?

A. Gordon Clark.

Q. Dixie Container Corporation?

A. Joe Schwind and Herb Mitchell.

Q. Inland Container Corporation?

A. Barney Roberts.

Q. International Paper Company?

A. Hugh Reid and Spike Ennis.

Q. The Mead Corporation?

A. Bobby Wainscott and Bert—I am not sure whether it is Pritchard or Pridgen. It is in that neighborhood.

Q. Miller Container Corporation?

A. Harold Kyle, Bill Noftsinger.

Q. Owens-Illinois Glass Company?

A. Ken Rosenbaum and Brittain.

Q. St. Joe Paper Company?

A. No, sir.

Q. St. Regis Paper Company?

A. Petree.

Q. Is there any other person that is in that company?

A. Not that I have talked to, no, sir.

Q. Tri-State Container Corporation?

A. Alan McDonald.

Q. Union Bag-Camp Paper Corporation?

[Tr. A-346] A. John Pritchett, Ed Faulkner, Frank Grimes.

Q. West Virginia Pulp & Paper Company?

A. Alan Holt and Dave Orcutt.

Q. Weyerhaeuser Company?

A. George Elliott.

Q. The Waterbury Corrugated Container Company?

A. Joe Reynolds.

Q. Mr. Holbrook, the Old Dominion Company is not a defendant in this case. Have you ever during the period from January 1, 1955 to October 14, 1963, given or received

price information as to specific customers with anyone employed by the Old Dominion Box Company?

A. To clarify that, you are talking about Old Dominion with locations in Charlotte, Corrugated Division, before Weyerhaeuser bought it?

Q. Yes, sir.

A. Yes, sir.

Q. With whom?

A. Ivan Wood; maybe Alan Clayton. I am not certain on that.

Q. How did you first learn of the publication of the Inland manual?

A. It came through the mail. The first issue came [Tr. A-347] through the mail. The second issue was sent to us by a customer.

Q. Have you received subsequent amendments to that manual?

A. The amendment did not come to us from Inland as I recall but we had it sent to us by a customer.

Q. Do you make any containers to a standard size or dimension?

A. No, sir.

Q. Is your product a bulky product?

A. We make cartons, we don't like to, but we make cartons that might be four inches square or six inches square, and then we make cartons that might be seven inches long, 20 inches wide, 35 or 40 inches high. So we have a great variety of sizes.

Some of our cartons, three of them would be heavy enough for two men to lift. Some of them, one man could hold fifty. I am not sure I can answer the question.

Q. Is freight a relatively large cost in putting a carton in a customer's warehouse?

[Tr. A-348] A. I am not up on the cost of that. I know freight is a peculiar angle to this extent. We as a small company have to do business in different places with small customers and some large customers. Other competitors

service those, and the customer, no matter how friendly he is to us or no matter how well he appreciates all the engineering and design work we have done for him, in a great majority of the cases he doesn't feel that he should pay us more money than he pays our competitor. So that, if we are selling boxes some distance from our plant, a hundred, two hundred miles away, and he is being sold by a competitor who is in close proximity to him, we have to equalize the freight.

So that freight is included in our cost, but we do not freight-charge each particular item. The only instance in that area would be when a customer might pick up his boxes at our factory, and we would allow him freight on that. We would allow him the carload rate from our town to his town not to exceed a certain amount.

Q. Your cartons are generally priced on a delivered basis, is that correct?

A. Yes.

Q. Sir, with reference to the records which you maintain on customer prices, when you are requested by a competitor to give a price, do you make any notation on your records? [Tr. A-349] A. No, sir.

Q. Do you have any record whatsoever of these calls?

A. No, sir. When the cards are brought to me, I give the information and put the cards in our out basket, and they go back to the files.

[Tr. A-102]

Tuesday, March 10, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Crown Zellerbach Corporation: Howard T. Milman, Philip S. Ehrlich, Jr., Charles T. Hagan, Jr.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF GORDON M. CLARK

(PX-8)

[Tr. A-103] Q. Mr. Clark, will you state your full name, residence, and business address, please?

A. Gordon M. Clark, 6 Broadmoor Drive, Greenville, South Carolina.

Q. Your employer?

A. Gaylord Container Division, Crown Zellerbach Corporation.

Q. Your position?

A. Resident Manager, Greenville Plant.

[Tr. A-104] Q. Mr. Clark, who has pricing authority at the Greenville plant?

A. I have pricing authority along with my sales manager.

Q. Was this true at the time you were sales manager, also?

A. Yes, sir.

Q. Do you share this authority or is either authorized to make a price decision independent of the other?

A. Either is authorized to make a price decision.

Q. Has this been true throughout the period?

A. Yes, sir.

[Tr. A-105] Q. During the period from November 1, 1958

to October 14, 1963, have you ever found yourself in the presence of representatives of your competitors when prices of corrugated containers were mentioned?

A. Yes, sir.

Q. Would you describe the occasion?

A. At zone meetings of the Fibre Box Association prior to October of 1961 some price matters have been mentioned in my presence.

Q. Were zone meetings the only occasions when this occurred?

A. No, sir.

Q. Will you describe the other occasions please, sir?

A. I attended a meeting sometime in 1959 in Raleigh, North Carolina.

Q. What do you recall about that meeting, sir?

A. I frankly don't recall what transpired at the meeting.

Q. Let me ask you this first, sir. Do you recall ever [Tr. A-106] having been in DiMizio's Restaurant in Salisbury, North Carolina?

A. I remember attending a meeting at a restaurant in Salisbury. I do not recall the name.

Q. On that occasion, sir, did you have lunch at the time?

A. I don't remember.

Q. Do you recall—sir, what do you recall about the restaurants?

A. I don't recall the gist of the meeting other than having met with some other competitors. I do not recall the discussion that transpired or what the purpose of the meeting was.

[Tr. A-109] Q. Do you know the Sir Walter Raleigh Hotel?

A. Yes, sir.

Q. Was the meeting which you attended in Raleigh at the [Tr. A-110] Sir Walter Hotel?

A. Yes.

Q. Were there many people present?

A. As I recall there were a number of people present.

Q. Were the persons present all representatives of corru-

gated container manufacturers?

A. Yes.

Q. Which companies were represented?

A. I recall one person in particular and it is primarily by association that I recall. I had breakfast that morning with Ken Rosenbaum and Mrs. Rosenbaum in the dining room or the restaurant portion of the hotel.

Q. Mr. Rosenbaum is with what company?

[Tr. A-111] A. Owens-Illinois in Salisbury.

Q. Did Mr. Rosenbaum accompany you from breakfast to the meeting?

A. Whether he physically accompanied me or not I don't know. I do remember his having been there at that time.

Q. Was Mr. Rosenbaum present in Salisbury?

A. I don't remember.

Q. And the subject matter of the two meetings?

A. I don't recall the subject matter of the Salisbury meeting, the subject matter as best I can recall at Raleigh was some conversation about set ups that—and that is the [Tr. A-112] gist of what I recall.

Q. When you say set ups—

A. Speaking of set up charges as relates to the various pricing manuals.

Q. Do you recall any occasion when you were in the presence of your competitors and the subject of prices of corrugated containers in the Southeastern United States was mentioned?

A. Yes, sir, it was mentioned at various zone meetings, either prior to or immediately after the formal meeting.

Q. Will you describe these occasions?

A. As I say, I remember various discussions. However, I do not recall discussing anything specifically at any one of these meetings.

Q. Were any of these meetings at or about the time of the

meeting in Salisbury and the meeting in Raleigh?

A. My reference to meeting has to do with the regular zone meetings, sir. As I mentioned previously, prices may have been discussed at any one of these zone meetings, either in a general way—I don't recall any specific discussions.

[Tr. A-114] Q. Sir, correct me if I am wrong. I understood your testimony to be that you do have a recollection that set up charges were discussed at the Raleigh meeting?

A. A discussion of set up charges, yes, sir.

Q. Was this discussion related to the change in set up charges during the summer months of 1959?

A. I cannot answer that.

Q. Sir, I realize this is a real mental exercise. Sir, when we refer to set up charges, is this an element of price?

A. In some instances, yes, sir. However, my price can consist of many variants of set up charges. Many of my prices are arrived at from my costing manual wherein I have variable [Tr. A-115] set up charges.

Q. Is set up charge an element of price of any corrugated container?

A. Yes, sir.

[Tr. A-116] Q. Mr. Clark, have you during the period from November 1, 1958 to October 14, 1963, received requests from representatives of your competitors asking for the prices which you were then charging a specific customer?

A. Yes, sir.

Q. What do you recall about these occasions?

A. This is quite a frequent occurrence insofar as telephone contacts requesting my past market information on a specific account.

Q. Do you give this information when you are requested?

A. Yes, sir.

Q. Where do you obtain the information which you gave?

A. I maintain a card-file which identifies an account and a sales level which we have internally established. I also seek information from my sales order file as well as from

my estimating file and my suspense quotation file.

* * * * *

[Tr. A-117] The Witness: By my file I refer to the general file information and not mine alone. They are to be used by my sales manager, my sales service manager, or my order department personnel.

By Mr. Sliney:

Q. These files to which you have just referred, do these include those which you have just named?

A. Yes, sir.

Q. Was one the suspense order file?

A. A suspense quotation file.

Q. Sir, are these the same files that you have used for this purpose throughout the period from November 1, 1958 to October 14, 1963?

A. Basically, the same type files, yes, sir. By basically the same type, information changes frequently. We are in a competitive market up and down. Files are not constant.

* * * * *

[Tr. A-119] Q. At what point, sir, is the copy of the quotation put in the suspense quotation file?

A. After it has been mailed and/or given the salesman for delivery. I do not discuss quoted information until I am reasonably sure it has had sufficient time to reach the customer.

Q. This is a consideration on your part?

A. Right.

Q. In answering a competitor's request?

A. That is correct.

[Tr. A-120] Q. Do you use all of these files on each occasion that you reply to a competitor's request?

A. If I am in doubt whether a sale has been consummated or whether the quotation has been delivered. If the inquiry is in regard to an account that I know I have sold recently, my card file will give me, in some instances, a level that I can transmit to a competitor.

Q. Sir, I have lapsed again into the present. I wish to reiterate that I have reference to the period from November 1, 1958 to October 14, 1963. Does your answer also have

reference to that period?

A. Yes, sir.

Q. In answering your competitor's request, do you give him the information which actually appears on your records?

A. In most instances. If their inquiry is incomplete, I give them only that which they ask for. There may be information pertinent to the sale that I do not divulge if they don't request.

Q. Have you at any time during this period given false information?

A. Yes, I have.

Q. On what occasion, sir?

A. I don't recall any specific occasion but if they have asked for a past market in an account and I may have varying levels, I have given my highest level.

[Tr. A-121] Q. But on this occasion you gave a level which did exist in that account; is that correct?

A. Yes.

Q. Have you ever given a level which did not exist in a specific account to which you have reference?

A. Not to my knowledge.

Q. On these occasions, sir, where you supply this information, do you make any notation in your records?

A. No, sir, I do not.

Q. Do you have any way of determining to whom or when you have given this information?

A. No, I have not, sir.

Q. During the period from November 1, 1958 to October 14, 1963 have you had any new plants open up in your territory?

A. Yes, sir.

Q. What plants are those, sir?

A. Union Bag-Camp at Spartanburg, Blue Ridge Container at Newton, North Carolina, International Paper at Statesville, North Carolina, Dixie Container at Morganton, Southeast Container at Martinsville, Virginia. That is the extent of my knowledge.

Q. That would be five new plants?

A. As best I can recall off hand, yes, sir.

Q. That would be in the period from November 1, 1958 [Tr. A-122] to October 14, 1963?

A. That is right.

Q. When one of these plants has opened up in your area—do you consider this and what effect it may have on the market which you are serving?

A. Repeat the question, please.

(The question referred to was read by the reporter.)

The Witness: It merely means to me we have that many more people competing for our customers.

By Mr. Sliney:

Q. Has it been your experience as these plants have opened up that prices have been affected?

A. The fact that new plants have opened up has not had direct effect on prices because traditionally our business has been one of extreme competition regardless of the additional facilities or if the existing ones remain in the area.

Q. As these plants have opened up have they had any effect on your practice of giving information regarding the most recent past price to a competitor upon his request?

A. No, sir.

Q. When you furnish this information to a competitor, when you have furnished it during the periods to which we have reference, what benefit did you or your company derive from this service which you had provided?

[Tr. A-123] A. In some ways it has given me an insight as to who is actively competing for this particular piece of business.

Q. Do you find this helpful information?

A. It means I can be on the lookout for a specific company or competitor.

Q. Has it had any other value to you?

A. No, sir.

Q. Sir, during this period have you sought from a competitor the prices which he was then charging a specific customer?

A. Yes, sir.

Q. On these occasions did you consider that you might be tipping off your competitors as to the fact that you were

interested in this customer?

A. Yes, sir.

Q. Did this have any effect on your decision to seek this information?

A. No, sir.

Q. Did you consider the information of sufficient value that you were not concerned whether or not your competitor knew that you were interested?

A. Yes, sir, It gave me an insight as to what the approximate price was in the account.

It gave me an opportunity to meet the conditions or cut the situation if I so chose, depending upon my particular needs [Tr. A-124] within the plant.

Q. Of what value was it to you, sir, to have this approximation?

A. If I was determined to go after a piece of business and knew the market at which it was going, it would enable me to make a move sometimes without having to go as low as I was willing to go. Or it pointed out it was unattractive to me and I desired not to participate.

Q. Sir, you mentioned, I believe, that you have four manuals.

A. I use four pricing manuals in addition to my costing manual to arrive at prices. The manuals which I use have a variety of discounts all over the lot. The manuals specifically are \$12.35, \$13.00, \$14.30, \$15.00, again referring to the multiplier for two hundred pound test board. The other charges for lesser test, of course, are lower in each instance. For higher test a greater charge. But 35 to 40 percent of my business is priced without relationship to any one of those four pricing manuals.

Q. What purpose does it serve for you to have these four manuals?

A. In many instances I can use any one of the four and discounts from any one of the four in arriving at a selling price for any specific account. It then establishes internally [Tr. A-125] a level at which that account may be sold or quoted without having to have my authorization or the sales manager's authorization. It permits my sales service de-

partment to act without having to check each and every item for any one account.

Q. Are prices computed internally on each of these four manuals?

A. Not in every instance. Bear in mind 35 to 40 percent of my business is priced without regard to any one of those four manuals.

Q. My question should have been, is each of these four manuals used for purposes of price computation internally?

A. Will you repeat that question, please?

(The question referred to was read by the reporter.)

The Witness: Not in all instances.

By Mr. Sliney:

Q. I do not mean to imply in all instances. I am only inquiring as to whether each of these four manuals find some use in your operations as a means of price computations.

A. At some time or other possibly, yes. However, with discounts from any one of four manuals.

* * * * *

Q. During that period, sir, have you communicated with competitors with reference to a manual?

A. Yes, sir.

[Tr. A-126] Q. Describe for us sir, that type of communication.

A. If a competitor asks for the market or level at which I have sold a specific account I would relate it to one of the manuals and its appropriate discount if it is applicable. If the inquiry was about an account which I have not priced on any one of these manuals but have sold and priced from my costing manual, I would then be obliged to verify the specifications of the item or items which they are seeking and then give an end-sales price information only.

Q. You would give end-price on occasions where the item has been priced from your internal costing manual?

A. That is correct, sir.

Q. And on other occasions, you would give levels; is that correct?

A. That is correct, sir.

Q. With reference to a specific manual?

A. Yes, sir.

Q. The manual would be named at that time, identified?

A. Only named or identified as relates to \$12.35, \$13, \$14.30 or \$15.

Q. On these occasions, sir, is the set-up charge identified?

A. Yes, sir, on some occasions, not every one.

Q. How is that identified?

A. As a \$25 set-up charge or \$15 set-up charge.

[Tr. A-127] Q. On what occasions would you not identify the set-up charge?

A. If it was not related to one of the manuals.

Q. Sir, these calls that you have made to your competitors, have they involved long distance calls?

A. Yes, sir. I do not have any local competition in Greenville by way of manufacture.

Q. As a result, calls that you receive from your competitors would involve long distance calls, also?

A. Yes, sir.

[Tr. A-270]

Monday, March 9, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Union Bag-Camp Paper Corporation: Thornton H. Brooks, Edward R. Kenney, Walter C. Taylor, James C. Withrow, Jr.

Other defense counsel appeared as of record, as stated by Mr. Armistead W. Sapp.

DEPOSITION OF FRANK B. GRIMES

(PX-16)

[Tr. A-272] Q. Are you currently a sales manager with the Union Bag Company?

A. Yes, sir, I am.

Q. With responsibility for what area?

A. The supervision of six salesmen, securing profitable business for my plant and sole responsibility for pricing the business for that plant.

Q. Which plant is that, Mr. Grimes?

A. Spartanburg.

Q. In what area of the United States are sales made from the Spartanburg area plant for corrugated shipping containers?

A. For the State of South Carolina, the western part of North Carolina, eastern Tennessee, three counties in north Georgia.

Q. Has this been true since the Spartanburg plant was established in that area?

A. 1960, January 1?

Q. When was the plant established?

A. We started production January 1, 1960. That was the [Tr. A-273] opening date for the plant.

[Tr. A-274] Q. During the period when you were sales manager at Spartanburg did you have occasion to refer to employees that you call estimators, functions for determining prices on corrugated shipping containers?

A. Did I refer to the estimators, Mr. Bernstein?

Yes, they were part of the sales organization.

Q. Was the practice generally the same so far as their duties were concerned throughout the period, or did that change? Their general duties of furnishing you information as estimators, was that generally the same throughout the period?

A. Yes, there is no change in the procedure on that.

FOR PLAINTIFF:

Q. Will you describe in a general term what their procedure was, what they were obliged to do, what they did?

A. I would receive inquiries from customers, from [Tr. A-275] salesmen, and I would assign a manual level, not one but several. I would assign manual levels to an inquiry at which time I would pass it on to my two estimators, and they would develop a price, using the manual.

They would return that price to me, at which time it was my decision to price the items on that inquiry.

FOR DEFENDANTS:

Q. When you referred the assignment to the estimator, you specified either one or more manuals that they were to use, is that correct, sir?

A. I would specify the manual with discounts, corresponding discounts or increases in a given manual.

Q. What would determine what information you would give the estimator in the first instance?

A. I would receive reports from my salesmen, from my customers; we had many sources of information.

Q. What would be the nature of the kind of information that you would get from a salesman? Can you give us an example of what kind of information? If you received an inquiry from a specific customer, now, with regard to the information you gave the estimator, what information would you receive from a salesman or customer that would enable you to give that information?

A. He would report to me as to whether the price had been cut in the account; whether the price had been raised. [Tr. A-276] He would also report our competition in a given account. This would certainly have a bearing on my decision to price.

Q. In the first instance, would he mention manual to you or use the word manual, or tell you what manual the customer was using?

A. No, he would not.

Q. From the information that you received, you determined what instructions to give the estimator insofar as using the manual is concerned, is that correct?

A. That is correct.

Q. Now, let us take the most recent period, let us say from March 1962 to October 14, 1963. Would you identify the several manuals that your estimators used under those circumstances, and I am talking about from March 2, 1963, thereafter.

Mr. Kenney: 1963 or 1962?

Mr. Bernstein: 1962.

The Witness: We have six manuals that we refer to. The first one is the Union Bag Cost Manual. We then have a \$12.35 manual. We have a \$13.00 manual, a \$13.60 manual, a \$14.30, and what we refer to as a \$15 manual.

By Mr. Bernstein:

Q. Within the company is that the name that you use to refer to them, or do you use other names?

A. Yes, we refer to them in terms of dollar manuals. [Tr. A-277] We also have some of our customers refer to these manuals by \$12.35, our competitors also refer to these manuals as the \$12.35 or the \$13 manual.

Q. Mr. Wulff has testified regarding the instructions to plant managers concerning giving information to competitors. Did you furnish any of the defendants whom you refer to as active competitors in your area, information concerning prices charged specific customers for corrugated shipping containers during the period after the establishment of the Spartanburg, South Carolina, plant?

A. Yes, I did.

Q. Would this be done upon their request?

A. Yes.

Q. What was the source of your information that you

furnished to them?

A. We would record on our estimate cards our last past market price and I would refer to them in answering an inquiry from a competitor.

[Tr. A-278] Q. What is the estimator card you refer to?

A. As a price is developed the form the estimator uses is referred to as the estimating card. As he develops a price it is a worksheet.

Q. And he records the information on it; is that correct?

A. That is correct. Let me qualify that. He does not record all of the information. He develops the price. He then gives it to me and at my discretion I can well change that price, up, down or what have you.

Q. What information do you record on the card?

A. The name of the customer, the level.

Q. I mean you personally, what information do you personally put on that card?

A. After the price is developed and given to me, it is my option to put whatever price I so deem necessary.

Q. And that represents what, the price to be quoted that particular account; is that correct?

A. Yes.

Q. If you adopt the price worked out by the estimators, [Tr. A-279] would you put that price down, would you initial it or what is the practice?

A. Yes, I would initial that.

Q. You would initiate that with the price that had been developed?

A. Yes. That is the price we use. My signature will indicate to the lady who is to type up the quotation that this is the price to quote.

Q. How is that communicated to the customer, as a general rule? After you get through with it what happens to it?

A. It would well be telephoned to him, telegraphed or a formal quotation could be prepared and sent to the customer.

Q. Has it been a general practice that the quotations were sent to the customer from your office in Spartanburg,

South Carolina?

A. I would say for the most part, yes. Occasionally, we will give the quotation to the salesman who, in turn, will deliver it to the customer.

Q. Was there any system used in your plant, Spartanburg, South Carolina, to determine whether the customer had received the quotation before you would give the information to a competitor if he would call for the past quote to that customer?

A. We have one system where in a quotation will have [Tr. A-280] two copies attached to it, Mr. Bernstein. On being submitted to the customer by a salesman, he then indicates the result of that quotation, whether we obtained the order, whether the price was high, whether our price was low or what have you. The other indication would be a report back from the salesman or the customer that our prices again were competitive or not competitive but I think the best indication would be if the order came in in the next day or two.

Q. What do you call those sheets coming back from the salesman, do you call them estimating cards?

A. These are copies of the formal quotation.

Q. Are they filed with the estimator's cards?

A. They are not. They are filed in my office.

Q. In a separate file?

A. Yes.

Q. How about the estimator's cards, are they kept in your office?

A. No, they are not. They are kept in the estimating department.

Q. What is the procedure when a competitor would call you for a "past market" for a particular account?

A. I would ask my secretary to get me the estimate file on a given account and—

Q. What information would you give to the competitor from that estimator's card?

[Tr. A-281] A. Whatever information he was seeking from me.

Q. Would that be the most recent price recorded on that card?

A. That is so.

Q. What can you tell us about the frequency with which

you received requests for information from competitors concerning prices charged specific customers at the Spartanburg, South Carolina plant?

A. The frequency—on a weekly basis I might well receive four or five requests for pricing information, past market information.

Q. When you refer to "past market information," are you referring to the information, in giving information, information that you take from the estimator's cards? Is that correct?

A. Would you restate that, please?

Q. I will rephrase it. When you use the term "past market information" and we are talking about information you give a competitor, are you referring to the information that you take off the estimator's card?

A. That is correct.

Q. And when you—

Have there been occasions when you would request information from competitors?

A. Yes, there have been.

[Tr. A-282] Q. Was there any greater frequency that these requests were made of competitors at the opening of the Spartanburg plant than later on or did it continue generally the same?

A. When we first opened the plant, I had to get the feel of that particular market and I was probably seeking more past market information than I am today. Our plant is running well. At that time, in order to penetrate a lot of accounts we had to cut prices to get the business. The frequency of calls at that time were more than they are today.

Q. How long did that continue, when you say frequency was more than that, how long a period after the opening of the plant did that continue?

A. I would say a year's time until we had ample production in the plant.

FOR DEFENDANTS:

Q. Was this prior to the price increase of July, 1961?

A. Yes, it was.

Q. Do you recall whether or not this price cutting that you referred to before took place after that?

A. Our plant was still not running at capacity until December of the following year. So, the price cutting activity that I was engaged in certainly continued after July and August.

* * * *

[Tr. A-283] Q. Now, would you describe the price cutting activity that you were engaged in?

A. As we approached accounts within a state, within a state, within our given territory, the purchasing agents for the most part were well satisfied with their present suppliers and told us very frankly the only way you can get this business is to offer a concession, specifically price.

Q. Were there occasions when you would call up a competitor before the cut and ask for the price that he was then selling that customer?

A. Yes, sir.

Q. After you received that price, would you then deliberately make a quotation lower than the price that the competitor had been charging?

A. Lower, yes.

Q. What, if anything, did you tell the competitor on those occasions?

A. He would call and ask what we had done and I would tell him, frankly, we wanted this business.

Q. And you would tell him that you had cut the price; is that correct?

A. That is correct.

Q. And you would give him the price to which you had cut it; is that correct?

A. That is correct.

[Tr. A-284] Q. Would you engage in any further discussion concerning the reasons for cutting the price?

A. Philosophize with them about what I had just done.

Q. Had that occurred?

A. No.

Q. Had any bad feeling or threats or any attitude on the part of the competitor been communicated to you on those occasions when you cut the price?

A. I was not the most popular guy in the State of South Carolina for many, many months, but as far as any threats,

there were none.

Q. How about after the plant had reached its capacity?

A. There was still price cutting activity.

Q. Were there occasions when you gave a competitor information concerning a price charged a specific account and you later ascertained that he cut your price?

A. That is correct.

Q. What, if anything, would you do on those occasions?

A. I would find out what his last price was and try to determine if that business was profitable, if we would consider still lowering our price further. There were many factors involved. The plant, at that time, may have been running at capacity, it may not have been. Our product mix may not have been optimum. We wanted to improve the mix. General market conditions. Whether we were working overtime [Tr. A-285] at the plant. These were other factors taken into consideration.

Q. Let us analyze these factors. The first one, you said a factor would be whether a plant was operating at a capacity? Is that correct?

A. That is correct.

Q. What would the consideration be if it were?

A. If it were?

Q. Yes.

A. I would next try to improve the mix in the plant.

Q. What does that mean?

A. The product flow through the plant. We try to sell the most attractive type business for the Spartanburg plant.

Q. How would that influence your decision as to whether you would meet or beat a price cut by a competitor? In other words, if your plant was at capacity and if the mix was satisfactory, what consideration would you give that when you learned that a competitor had cut your price with a particular account? I am trying to find out how you applied the principle, what application did you make?

A. What I would, in turn, do?

Q. How would it affect your decision concerning the price? I don't want to put words in your mouth, but as an example, if the plant were at capacity and your price was cut, you weren't concerned about your production, might you not [Tr. A-286] meet that price?

A. Meet it or perhaps cut it a little more.

Q. Even though your own plant was at capacity; is that correct?

A. Here, you are telling me—excuse me—we cut a price, a competitor, in turn, came back and cut our price, what would I, then, do?

Mr. Kenney: May I suggest, Mr. Bernstein, that you ask him the question again? I think he has lost track of it.

Mr. Bernstein: All right, I will rephrase it.

By Mr. Bernstein:

Q. I am trying to ascertain how in practice the factor of the operation of your plant at capacity influenced the price that you would quote a particular customer.

A. If our plant was running at optimum capacity, our mix was good, I would certainly not, I would not be as prone to cut a price.

Q. What significance would the overtime factor have?

A. Well, if we found that we had a preponderance of one type business, we refer to it as specialty business, requiring a lot of overtime, I might well price myself out, price high on specialty type business and eliminate the overtime in the plant.

Q. So that, is it fair to say that depending upon the [Tr. A-287] particular account and particular plant situation at a particular time, you would then make your determination as to whether you were going to meet the price, quote higher, or quote lower, is that a fair summary?

A. That is fair.

Q. Now were there occasions when you found out that a competitor had cut your current price to a specific account and subsequently he would ask for information concerning another account, and what effect, if any, did the fact that he had cut a previous account have on your decision to give information concerning some other account?

A. I wouldn't hesitate to give him the information.

Q. Weren't you concerned that he might cut the price to that account?

A. Yes, at least I would know where the source was. If he is calling me for guidance for past market, I know he is a factor, he, too, is quoting in the account, and this information is good, better than not having any at all.

And by the same token, I would have to call him for a past market at some later date.

Q. Why would that information be of help to you? The past market price that you would get from him?

A. Why would it be of help to me? It would help me in my decision as to how to price the account. If my competitor is historically selling at low market prices, it [Tr. A-288] helps me in deciding as to what manual to use. If he sells at a low level, I would use the, say, \$12.35 manual.

If historically he prices high, I might even try to get the business at a higher manual.

Q. But nonetheless lower than his price, is that correct?

A. Not necessarily, not necessarily.

Q. Would it be of any help to you on occasions to—let us see if we can put this in concrete terms, Mr. Grimes. I am referring now to the period when your Spartanburg plant first got into production and you were anxious to develop markets, is that correct?

A. That is correct.

Q. And you had determined that one of the ways you were going to get business was by cutting existing prices, is that correct, sir?

A. That is correct.

Q. Would it make any difference to you in the amount of the price that you would cut if you would find out what manual or what level a competitor was then charging a specific customer?

A. Yes, it would help.

Q. In what way?

A. I would know, number one, if it is profitable business. This would give me a feel of the market. This [Tr. A-289] information, coupled with other information I was getting, would help me in decisions on pricing.

Q. Were there occasions when you might find out that the competitor was using the \$14.30 manual, so that you could make a decision to cut the price from the \$14.30 manual, whereas, if he were using the \$13.60 manual, your decision would have to be to cut the price from the \$13.60 manual? Did that happen?

Mr. Kenney: Will you read the question?

(The question was read by the reporter.)

Mr. Kenney: Do you understand the question?

The Witness: Yes, I do.

As I mentioned earlier, Mr. Bernstein, the customers we were soliciting business from were for the most part satisfied with their current suppliers. They had to have an incentive to change, and for the most part that incentive would be a price reduction. So it was very unlikely that if we quoted the same manual that we would secure the business.

By Mr. Bernstein:

Q. Was it of any interest to you whether they were using the \$14.30 manual or the \$13 manual in determining what price to quote?

A. Very much so.

Q. How is that?

A. If I could obtain business, if my competitor was [Tr. A-290] quoting \$14.30 and I could secure business at \$13.60, that would be certainly to our advantage. I would not have to resort to the \$13.60 or the \$13 or the \$12.35 level. This would be more profitable business for us.

Q. What was your purpose in giving the information upon request to a competitor concerning a specific account?

A. Will you re-state that question?

Q. What was your purpose, what did you hope to accomplish, what did you intend to achieve for your company in giving a competitor information concerning the past market to a specific account?

A. I had to give him that information. If I didn't give it to him, he in turn would not seek information from me. Mr. Bernstein, you must understand, as we started our Spartanburg plant up, we had to penetrate accounts to get business for running, and this happens, we have had it happen in the last year, in the last year and a half, with other competitors moving into this area. This is the route you have to go in order to fill your plant up.

Q. Now referring to the period since the Spartanburg, South Carolina plant has been in operation and up through July 1, 1963, and I am using the date July 1, 1963 because of Mr. Wulff's explanation there was no communication with competitors during the period July 1, 1963 through October 1, 1963—up through July 1, 1963, can you identify

the [Tr. A-291] individuals in behalf of Container Corporation of America to whom you gave information concerning a specific customer or received information concerning a specific customer?

A. A Mr. Clay at Container Corporation.

* * * * *

Q. Please identify it or I will say it this way, please state whether or not during the period 1960 when the Spartanburg plant opened through July 1, 1963, you gave any information upon request to a representative of Albemarle Paper Manufacturing Company?

A. I cannot recall the party to whom I may have given that information.

Q. Can you recall you did but you cannot identify that individual?

A. That is correct.

Q. But you do recall you did give that information?

A. Yes and Dozier I believe is the party I communicated [Tr. A-292] with.

Q. And did you also receive information from Mr. Dozier of Albemarle Paper Manufacturing Company?

A. I believe I did, yes.

Q. And the same question with regard to Carolina Container Company?

A. Mr. Carter Holbrook.

Q. And the same question with regard to Continental Can Company?

A. Mr. Roy Taylor and Mr. Johnson and Mr. Beams.

Q. And the same question in regard to Crown Zellerbach Corporation?

A. Mr. Gordon Clark.

Q. And the same question with regard to Dixie Container Corporation?

A. I don't recall calling Dixie in Richmond. I have had communications with Dixie at, Dixie of North Carolina, with Mr. Joe Schwind.

Q. And did you give or receive information concerning the price charged a specific account with anyone from Inland Container Corporation during the same period?

A. Mr. Barney Roberts.

Q. And the same question with regard to International Paper Company?

A. Mr. Spike Ennis.

[Tr. A-293] Q. And the Mead Corporation?

A. Mr. Dave Bloom.

Q. And Miller Container Corporation?

A. I can't recall communicating with Miller Container.

Q. Is it your current recollection that you did not communicate with them at all?

A. It is my best recollection, I don't recall ever calling those people.

Q. And do you recall ever giving or receiving information concerning the prices charged a specific account during this period to Owens-Illinois Glass Company?

A. Mr. Ken Rosenbaum.

Q. Anyone else?

A. Mr. Brittain.

Q. How about the St. Joe Paper Company, the same question?

A. I recall vaguely calling St. Joe Paper Company. This is several years ago but the man's name escapes me.

Q. Do you recall whether you received the information on the occasion that you called?

A. I don't believe so. I don't believe I did.

Q. Do you recall whether St. Joe Paper Company ever made any requests to you for price information?

A. I don't believe they did, no.

Q. Do you recall whether St. Regis Paper Company made [Tr. A-294] any requests of you for price information concerning specific accounts?

A. Mr. Petrie and Mr. Diggs.

Q. Do you recall whether you requested any information of St. Regis Paper Company?

A. That was St. Regis Paper?

Q. You requested and gave information, is that right?

A. That is right.

Q. And did you request any information of Tri-State Container Corporation?

A. Yes, I did.

Q. From whom?

A. Mr. McDonald.

Q. Is that Alan McDonald?

A. Alan McDonald.

Q. Did you give any information upon his request?

A. Yes, I did.

Q. And anyone else of that company?

A. I don't recall any other parties, no.

Q. Do you recall making any requests of West Virginia Pulp and Paper Company during this period for that kind of information?

A. Mr. Alan Holt.

Q. Do you recall any requests made of you for customer information from Mr. Holt?

[Tr. A-295] A. Yes, I do.

Q. Anyone else in West Virginia?

A. No, sir.

Q. Do you recall whether or not you gave any information upon request to Weyerhaeuser Company?

A. Yes, Mr. George Elliott.

Q. Anyone else?

A. Mr. Alan Clayton. Those are the only two I can recall.

Q. Do you recall whether anyone in behalf of Weyerhaeuser Company requested information from you concerning quotations to specific accounts?

A. Yes, both of those gentlemen did.

Mr. Bernstein: Let us approach it this way. I will be through with the witness in two minutes. In response to my question before concerning the benefit to your company of giving information to a competitor concerning a price charged a specific customer even when he cut your price, what was your answer to that, please?

The Witness: The benefit derived by my company—

Mr. Kenney: Can't we find out his answer by having that repeated?

The Witness: May I have that repeated, please.

(The answer referred to was read as follows:)

[Tr. A-296] "A. I had to give him that information. If I didn't give it to him, he in turn would not seek information from me. Mr. Bernstein, you must understand, as we started our Spartanburg plant up, we had

to penetrate accounts to get business for running, and this happens, we have it happen in the last year, in the last year and a half, with other competitors moving into this area. This is the route you have to go in order to fill your plant up."

By Mr. Bernstein:

Q. Is that what you meant?

A. He would not give it to me, in other words.

Mr. Bernstein, that information is very pertinent to me in making decisions on pricing. This is my decision to make alone and without this information I don't know what the market is.

* * * * *

A. My company policy, and this has been in effect for as long as I can remember, was not to attend meetings other than Fibre Box meetings, with my competitors. This was re-emphasized when I was assigned to the Spartanburg plant.

Q. How long had this policy been in effect that you were aware of?

A. As assistant sales manager, I believe the policy was [Tr. A-297] in effect then and in 1959 when I was told I was going to Spartanburg it was again re-emphasized.

* * * * *

[Tr. A-298] Q. What is your current impression as to what you did with regard to quoting the same price or higher to a specific [Tr. A-299] customer during 1962 and 1963 after you had asked the competitor for his past market to that account?

A. I would certainly continue as I did in 1961 or 1962. I had not changed my method of operating. If we wanted a piece of business that was attractive to us, we would certainly cut the price to get that business.

Q. What I am trying to ascertain is, were there more occasions in 1962 and 1963 that you found it necessary to cut the price in order to get the business than it was in 1961 or was it just the opposite?

A. I would say I would be less apt to cut in 1962 and 1963 than I would have been in 1961 or 1960.

Q. But nonetheless, you did cut as the occasion required; is that correct, sir?

A. That is correct.

Q. Did you evaluate each transaction at a given time depending upon the factors that were then involved in making your decision whether to cut, quote the same price, or go higher?

A. This was my decision to make, considering all factors.

[Tr. A-737]

Monday, March 9, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Union Bag-Camp Paper Company: Edward R. Kenney, James C. Withrow, Jr., Thornton Brooks, Walter Taylor.

Other defense counsel appeared as of record, as stated by Mr. Armistead Sapp.

DEPOSITION OF LEWIS WULFF

(PX-37)

[Tr. A-738] Q. Mr. Wulff, will you please state your full name, residence address and business address?

A. Lewis A. Wulff, 6245 Rivershore Parkway, North West, Atlanta, Georgia. Business address, 500 Pine Tree Street, Forest Park, Georgia.

Q. How long have you been engaged in the corrugated shipping container industry?

A. Since October 4, 1948.

Q. With what company have you been associated, or companies, have you been associated during that period of time?

A. Union Bag-Camp Paper Corporation the entire time.

* * * * *

[Tr. A-742] Q. I invite your attention to paragraph 3 of that notation, "We will make decisions on customer guidance only after exhausting all effort to determine level." Will you please explain what that meant?

A. It meant that we were anticipating that it was going to be necessary to raise prices. The time we didn't know. This was going to be a decision that would be made at headquarters. It would be a decision that came out of our general sales office in New York. We felt that when the announcement came out that we were going to take a final stand. If we announced publicly that we were increasing prices it was, and always has been our intention and practice that we attempted to be quite rigid in this business of raising it, and

certainly customers' attempts to do their jobs, purchasing agents want to do their jobs as best they can and it is their job to buy as economically as possible.

Too frequently, salesmen in particular are prone to accept customer guidance and we stated here that we would accept customer guidance only after attempting to find out [Tr. A-743] what the actual level is in an account and we very frequently called up our competitors to find out what their past market had been.

Q. Now in the case of this—strike that.

Is it not correct, sir, that on or about June 1961 you were giving consideration to a prospective price increase?

A. Mr. Bernstein, price levels had gone down rather consistently for a six months period and we knew that if we were going to stay in business we were going to have to raise our prices. If we were going to make any money in containers.

Q. Now did this policy on making decisions in customer guidance only after exhausting all efforts to determine the level, did you contemplate that that be implemented, that when prices should be increased, if they were, that if a purchasing agent would advise a salesman that he was not paying as much as the increase the Union Bag sought to impose, that before accepting that customer's word for it something be done about it; is that right?

A. I don't know what you mean by "something be done about it."

Q. To ascertain all effort made to determine a level. Is that what you meant, sir?

A. That is right.

Q. Something be done to determine a level?

A. That is right.

[Tr. A-744] Q. How did you contemplate that that be done, to determine a level?

A. This has been typical in our company. When we have announced that we are raising prices, very frequently it will be thirty days that we might even lose business in a given account. In essence that is what we are telling ourselves and our sales managers, we want to be sure that we find out that competition has not raised their price before we decide to revert to our former levels or we decided the business is not worth having.

Q. Did that also contemplate ascertaining that from competitors also servicing their customers?

A. Correct.

Q. Now I show you document numbered W21201 in the upper half and identified as UNI03352, in the lower right corner and ask you to please glance at that document and see if you can identify who prepared it and the circumstances under which it was prepared?

Do you recall who prepared that document?

A. This is Fred Kneip's handwriting.

Q. Do you recall discussing this subject with Mr. Kneip?

A. We discussed it many times, not only with Mr. Kneip but the legal department in New York, our own legal counsel, and the top management in the company.

[Tr. A-745] Q. Under Item 1, the first alternative method listed you list as a flat percentage increase across the board. Will you explain that in a little more detail, please?

A. Yes, sir. This approach, and these were possible approaches that we had discussed, this particular approach would be one where no matter what any customer was paying for boxes at the time we were announcing, we would possibly announce a flat increase, percentage-wise, whether it be five, ten, and it would apply to all accounts.

Q. Now did you personally consider that one of the arguments in favor of this was that there it reduced the need for communications? Was that your view?

A. You are asking me if I concurred in this opinion?

Q. Yes.

A. Yes, sir.

Q. Would you explain how this flat percentage increase would reduce the need for communication?

A. If we announced a flat percentage increase there would be no need for any of our competitors, in case they had an idea that they were going to follow a published announcement by Union Camp, there would be no need for them to talk to us about anything. We would not have raised our prices two percent with one account, five with another and six with another. We would say a flat percentage increase should suffice. The announcement of a flat increase.

[Tr. A-746] Q. I notice under a consideration against that alternative method was that this "would probably be a major change in the accounts handled by each customer ..."

Would you explain that?

A. I think he didn't write this very clearly: I don't really know what he means. It would probably be a major change in the accounts handled by each customer: I don't understand the word customer.

Q. If the word customer were competitor would that—

A. No, I think he means—

Q. I am not trying to ascertain what he means. I am trying to get your view of the situation at the time. So, perhaps let us approach it this way. Did you agree or do you know now whether there would be a major change in the handling of each account? Notice his reasons,—because (a)—what is his first reason? Deviation—lack of support?

A. Right. Would you restate the question?

Q. I will ask you another question now. Did you give any consideration at that time that this alternative method, of the flat percentage increase, would be disadvantageous because with regard to individual accounts there might be a major change in handling that account and there might be deviations and lack of support for this increase?

A. When we studied the approaches to a price increase we did not know, number 1, how we were going to approach it. [Tr. A-747] Secondly, we did not know how competition would react, and Mr. Kneip had written down under the "consequences" the possibility of lack of support in the industry.

Q. Lack of support by whom, Mr. Wulff; by competitors?

A. By competitors.

Q. You mean competitors might not take the same view?

A. They might not follow the original announcement. They might or might not also increase prices if we announced. He is referring to the flat percentage now under "consequence" and he felt, I am sure, and I did, that all competitors may not feel that certain accounts should be raised, and this would mean that if we had gone ahead and announced a flat percentage increase across the board that it might or might not be supported.

Q. Now, please observe the next reason that he gives as a condition, (B) it "tends to increase the importance of differentials now existing within accounts." Will you tell me now what that has reference to?

A. If we raise an account that through competitive pressures had been lowered in price over the years, or over the

months, and we increased said account 10 per cent, and we increased another account whose prices had not been so terribly depressed, we would be increasing the differential by adding 10 per cent to each one of them.

Q. Were there some accounts that were giving you a [Tr. A-748] return that you felt did not justify an increase at that time?

A. I can't say categorically. I would say probably.

Q. So that were you concerned, Mr. Wulff, that if you had an account that you had decided or that you might decide not to increase, and you used the across-the-board method, you might be concerned that some competitor might not increase—

Mr. Kenney: I object to that form of the question. I want to move along, too, but, I suggest that you re-phrase that question.

By Mr. Bernstein:

Q. We will note the objection.

Let me read it. Will you read the question?

(The question was read by the reporter.)

By Mr. Bernstein:

Q. —the price to that competitor?

Mr. Kenney: Objection. I don't understand the question. I don't know whether the witness does or not.

By Mr. Bernstein:

Q. Do you understand the question, Mr. Wulff?

A. I think I do.

With several hundred competitors, if a major company announces a price increase and it appears in the Wall Street Journal and the New York Times and the Chicago Herald Tribune and the Atlanta Constitution, competitors are going to assume [Tr. A-749] that prices by Union Bag-Camp have been raised or we would not have made the announcement.

If we say $7\frac{1}{2}$ per cent across the board, and they were to discover that in some accounts we had not raised, in other accounts we had raised 3 per cent and not $7\frac{1}{2}$, I can't anticipate all of the reactions that would occur. Some competi-

tors would probably say, "Well, they have not raised $7\frac{1}{2}$, they have raised 3, because in two accounts that I share I know they raised 3." Therefore, we would water down the effect of our announcement.

Q. And you considered this a disadvantage to using an alternative method of announcing by an overall increase, is that correct?

A. Correct.

Q. Note on the Alternative Method of using a price list of formula, you have in favor of that "Simplify Communications." Again, what was meant by that?

Mr. Kenney: If you know.

The Witness: Bear in mind these were all possibilities of approach. No decision had been made. We were kicking around all the methods by which possibly we could get this job done. When we speak of price list or formula, I think we are speaking of price list of commodity items such as I mentioned, the Sanitary Can Box price list; a formula would be an approach similar to the manual that was in [Tr. A-750] existence in the Southeast. You are asking me about the "Pro" now.

By Mr. Bernstein:

Q. And I am limiting my question to your own consideration. Did you subscribe to the view that one of the elements in favor or one of the considerations in favor of using the Alternative Method of issuing a price list or formula would be that it would simplify communications? Did you believe that?

A. I can't recall that I did or did not believe it.

Q. If you were making that consideration today, would that simplify communications?

Mr. Kenney: I object to the form of the question.

The Witness: I am not sure.

By Mr. Bernstein:

Q. Do you know what communications were referred to in this document?

A. The checking of past markets with competition, I am sure of that.

[Tr. A-751] Q. Do you know what ultimately happened to that 1961 increase?

A. Yes, sir.

Q. Was it implemented?

A. Oh, yes.

Q. How?

A. The Wall Street Journal carried an announcement—as I stated earlier I can't remember the date, I think it was September 1 or October 1—the announcement came out, I think, by one or two major competitors. We were in session each day to determine whether or not we ought to do it in the [Tr. A-752] same manner or how we should do it and I think there were probably two or three announcements before we issued one, also.

Q. Do you know now whether or not there was an Inland Manual published at that time to the Trade announcing the increase?

A. Mr. Bernstein, the announcement that I knew about came out of the Wall Street Journal and in other newspapers. We immediately set about announcing by letter to each of our customers a statement that our prices were going up effective whatever month it was, the first of October or the first of September. I am calling on my memory and I believe that sometime after that Inland Container came out with a new manual.

Q. Do you recall giving any consideration at or about this time to the increasing of the level high enough to allow independents to make a reasonable return?

A. That is listed here as one of the "Cons."

Q. Well, did you give that consideration?

A. We have always felt that if a price increase was going to be effective it had to be one in which independents were interested because in certain areas of our sales activity, independents are a rather decisive influence in the market. Please bear in mind that when we talk about raising prices we want to consider all of the influences that might [Tr. A-753] help or deny us success in the effort. I might add these cannot always be anticipated.

[Tr. A-754] Q. Mr. Wulff, do you recall whether or not in implementing the price increase, specific instructions were issued to plant managers concerning telephone conversations with competitors?

A. Are you referring to the 1961 increase, sir?

Q. Yes.

A. They were.

[Tr. A-755] Q. Now, would you please search your memory, and without referring to the document except to the extent that you have to, to refresh your own memory, I am trying to ascertain your current recollection of the situation, and explain to us if you recall what those instructions were?

A. With regard to communications?

Q. That is correct.

A. We instructed our sales managers in rather precise language as to how they could inquire of a competitor his past market. We instructed our sales managers on how they should reply to a competitor's inquiry of us as to what our past market was at the time. And we were quite specific, as shown on the exhibit.

Q. Can you identify the exhibit?

A. Page 3.

Q. No. I mean do you know what this exhibit is? Who prepared it, and what the circumstances were under which it was issued and so on? What does it look like to you?

A. These were ground rules that we established, and page 3 was discussed with counsel in our company and, as I recall, had their approval as the correct manner in which to avoid indiscretion, suspicion of wrong-doing, and we adopted page 3 as our communications system.

Q. Do you recall who prepared this document, pricing policy in these instructions?

[Tr. A-756] A. I prepared page 3.

Q. How about pages 1 and 2?

A. I think that was Mr. Kneip's authorship.

Q. Do you recall whether these were the instructions that were attached to the document and dispatched to your plants?

A. They were.

Q. Prior to July 28—strike.

For the record, did that include all of your plants that were responsible for selling corrugated containers in South-

eastern United States?

A. Yes, sir.

Q. Prior to July 28, 1961, and I am referring to the date that appears on the document, had you issued any instructions to your plant managers with regard to communications with competitors in Southeastern United States?

A. Mr. Bernstein, in 1956, a grand jury investigated the corrugated box industry in New York City. When that occurred, Mr. John Harrison, who was then Vice President in Charge of Sales for our division, made it a specific point to discuss with all of his sales managers the fact that our company had always been following, the policy had always been to follow proper, prudent discussion or exchange of information on prices, and by all means he wanted to be sure that the sales managers understood the correct way in which to handle. [Tr. A-757] this, and it was emphasized at that time.

Q. What guidelines had you given? Do you recall?

A. The guidelines given were pretty similar to page 3 actually. They had not been put in writing prior to this time, but it was actually his counsel and advice to all of us from which I was able to write this set of examples.

Number one, talk only about past markets. Number two, give a competitor what he asks for, hoping that if you ask him something he will give you what you need to know. In essence, that was it, no discussions, no philosophizing.

Q. When you say give the competitor—

Mr. Bernstein: Will you read back the last answer?

(The answer was read by the reporter.)

By Mr. Bernstein:

Q. With reference to your answer that you instructed your plant managers in general to give a competitor what he asks for, hoping that whenever you ask him for something he will give you what you wanted to know, what would be the type of information that you would want to know when you might make a request of a competitor?

A. I probably left myself a little too vague.

All we ever wanted to know from a competitor is what his past market is. All we ever gave a competitor was our

past market.

Q. When you say past market, do you know precisely [Tr. A-758] how that was implemented? Do you know, yourself? Do you know the records from which the information was ascertained and the source of the information?

I will withdraw the question and ask you this one:

Mr. Wulff, have you ever personally given competitors information as relating to Southeastern United States?

A. Yes, sir.

Q. What were the kinds of information that you gave?

A. The prices at which we had sold or quoted a customer.

Q. When you gave them that information, in what capacity were you then serving, as assistant to the sales manager, or some other capacity?

A. I have done that as assistant to the sales manager, and I have done it as regional sales manager in the Southeast.

Q. On the occasions when you did it as assistant to the sales manager, where did you get the information from to give the competitor?

A. From the plant.

Q. So, that necessitated another phone call, is that correct?

A. That is correct.

Q. You did not have the information readily available?

A. No, sir.

Q. Now, was it your practice and policy to give the [Tr. A-759] competitor the most recent price sold or quoted to a specific customer?

A. Oh, yes.

Q. When you referred to past market, you said a price quoted.

A. Yes.

Q. Did that refer to the most recent price quoted?

A. Yes.

Q. Did you make any distinction of withholding information from a competitor if a customer were currently buying a specific box from you, would you give the competitor the price that that specific customer was then being invoiced for the box, or would you withhold that information?

A. I wouldn't withhold any information. If it was the past market he asked for, he got it. He asked for it, [Tr. A-760] and he received it.

Q. Have you ever had occasion to withhold information requested by a competitor?

A. I don't recall any specifics where that occurred.

Q. Prior to October 14, 1963, and prior to July 1, 1963, when you became Southeast Regional Manager, did your plant managers in Southeastern United States have authority to give this information concerning past market for a specific account to a competitor?

A. Will you give me the date again?

Q. Prior to July 1, 1963, and after 1959.

A. From 1959 to July 1, 1963?

Q. Yes.

A. Did our sales managers have authority to give past markets to a competitor? Yes, sir. I mean plant managers. They did have.

Q. During that same period of time you also had occasion to give the information, is that correct?

A. That is correct.

Q. Now, what were the circumstances that the request would come to you and not to the plant manager?

A. There were a few competitors who had obviously limited the level of management responsibility to trading past market information. There were occasions when I would be asked in New York City by a competitor in New York City [Tr. A-761] to get past market information.

Q. Concerning Southeastern United States?

A. Yes.

Q. Can you identify those competitors?

A. It seems to me for a period, and the dates are too hazy for me to identify, there was a time when I believe Container limited conversations with competitors with people at higher level. I believe International Paper did. I believe they limited the level of responsibility for communicating purposes. To my knowledge they are not now in communication at all.

Q. Is that the present tense that you are using that?

A. Yes.

Q. Was there a time when they were "in communication"?

A. Yes, sir.

Q. Do you recall whether that was during some period of time while you served as assistant to the General Sales Manager of the Container Division during the period from the end of 1959 thereafter, sometime thereafter?

A. Yes, sir.

Q. Now was there any other—now is this a fair characterization that some companies insisted on “trading” information with you at your level of responsibility?

A. I can't tell you that. I know that answer.

Q. Can you identify any other companies that are listed [Tr. A-762] in this complaint with whom you “traded” information during the period when you were assistant to the general sales manager?

A. On matters pertaining to the Southeast, is that right?

Q. Yes, sir.

A. Mr. Bernstein, do you consider Southeast purchases that are made in New York City?

Q. Yes, for shipments to plants located within the states that are identified on the second page of the complaint.

A. Even though the purchasing is removed from the Southeast?

Q. That is right.

A. I am sure that I talked with “IP”.

Q. That is International Paper?

A. Yes, sir.

That is about all I recollect.

Q. Can you identify the individuals with whom you “traded”?

A. I talked to Chuck McMahon.

Q. Of International Paper?

A. Yes.

Q. And of Container Corporation?

A. I am trying to recall, I have to recall the problem before I can recall that I talked to anybody specifically. [Tr. A-763] I talked with Duane Arbuthnot.

Q. And what was the answer?

A. To be honest with you, I am not sure about that, in fact I know I don't recall exactly. I know that another sup-

plier entered the account, entered into a supplier relationship with the account. I don't recall if Continental Can did or not.

Q. At the time that you made the inquiry of Mr. Arbuthnot, did you know who was supplying the account?

A. Our sales manager in Jamestown was quite close to the situation. He received information from the plant level that a new supplier had entered it, had entered the account, so I knew that.

Q. Did he also advise you that Continental remained in the account?

A. I think he didn't even know at the time.

Q. Who was the new supplier?

A. Fitzhugh Container of New York.

Q. If you will please refer to the complaint to assist you in identifying the particular defendants in this case and state whether there are any other individuals that you [Tr. A-764] gave price information concerning specific accounts to during the period from the end of 1959 until October 14, 1963 that you have not already identified?

A. Howard Simmons, Weyerhaeuser Company, who was then located in Chicago.

Q. Do you have a question, Mr. Wulff?

A. From October 10 to October 14th is a problem that I have to explain to you. I took over my responsibilities in the Southeast the first of July. I did have very little communicating, if any, with people in the Southeast between July 1 and July 15th or 16th. I am speaking of 1963. Our entire container organization was off the phone from approximately July 16th until approximately October 10th. Therefore, if you want to use these dates I have to mainly refer to October 10th to 14th.

Q. During the period from July 10th to October 1st, do I understand you to say that it was—when you say "off the phone", what do you mean?

A. We were not communicating with competitors.

Q. At all?

A. At all.

Q. And so excluding that period was there any communi-

cation?

A. Sir, you asked up to October 14th and I only have four days left and that may have been a weekend. I don't [Tr. A-765] know.

I am not being evasive in answering the question.

Q. I understand. To clarify your answer I will say then up until—when was the date that you were out of communication?

A. About July 16th to—

Q. Let us say then from the period 1959 to July 16, 1963.

A. I had very little occasion to talk to any competitors other than the ones I have already mentioned. During the period from 1959 through July of 1963 on matters pertaining to the Southeast.

Q. Now from October 10, 1963 on to date, does your company maintain a policy of giving information to competitors concerning specific accounts in Southeastern United States upon request?

A. Yes, sir.

[Tr. A-766] A. We have currently, in most of our plants, we have attempted to develop this for all plants, what we call a cost-profit manual. We use that along with other manuals in determining prices. We don't seriously worry about the profitability if it is in a proper, reasonable range. We do worry about profitability when the market goes down to a given point, some given point, and we have frequently used cost manuals to determine whether or not we can afford a piece of business.

Q. Did the cost manuals that you use in general follow [Tr. A-767] the same system of estimating the price that is used in the Inland Estimating Manual or is it different?

A. The cost manual is totally different.

Q. Different system?

A. Totally different.

Q. Now you say that the non Union Bag manual is the manual used for estimating in price communication and how does it assist in communication?

A. We have upwards of a thousand customers in the Southeast. Probably the difference in price levels would go into infinity among these upwards of a thousand customers. If we want to determine a past market in a given account we may have an inquiry with fifty items. It is a very simple matter to get a feeling from competition of what the market is in the account by merely referring to a level or X number of percent off a level and it is more complicated than you can imagine. In addition the communication, itself, is complicated enough without attempting to get end prices on 50 or 60 items. We just don't have that much time.

Q. So, when, for ease of communication, you identify the board levels and you identify the manuals, is there anything else you have to identify for you to understand?

A. There is no standard set up and very frequently you will ask the competitor from whom you are attempting to get [Tr. A-768] information, what set up do you use? There are many times when there are differences in the way people apply the manual charges as they are set up in the book. I personally do not feel that if I get a manual level from a competitor that our sales managers are going to necessarily come up with an exact price. It is possible but it is not always true.

[Tr. A-769] Q. Mr. Wulff, you were asked a number of questions by [Tr. A-770] Mr. Bernstein concerning the Union Bag-Camp pricing increase in 1961. Was this price increase discussed with competitors before it was put into effect?

A. Not to my knowledge.

Q. One other thing. I would like you to state for the record why Union Bag-Camp went off the telephone between July 16, 1963 and November—to October 10, 1963?

The Witness: About July 16th or 17th, 1963; Mr. Kneip called our sales managers and regional sales managers into

New York City and announced to them that we were putting in the Wall Street Journal an announcement that [Tr. A-771] prices were going up effective August 1, 1963. He had a communication that was being mailed to our customers on that or the following day. He distributed these announcements. He said, "Gentlemen, in view of the fact that our industry is somewhat under the gun apparently with regard to how we conduct ourselves in handling our prices we want to keep ourselves beyond areas of suspicion in the way we are handling this in order to minimize exposure to possible indiscretions we are going to stand on the announcement and on announcement in the leading papers of the country. For this reason you fellows will be off the phone and out of communication with competitors starting today and until further notice.

[Tr. A-773] Mr. Bernstein: May we begin, Gentlemen, please?

I have been advised that Mr. Wulff desires to clarify a statement made yesterday. Mr. Kenney, will you proceed, please?

Mr. Kenney: Yes, Mr. Bernstein. And I would like to say for the record I appreciate the opportunity to clear this matter up.

Further deposition of Lewis A. Wulff, a witness in the above entitled action, recalled for examination by counsel for the Plaintiff, pursuant to stipulation of the parties, in the Grand Ballroom of the King Cotton Hotel, Greensboro, North Carolina, beginning at 9:00 o'clock a.m.

Whereupon, LEWIS A. WULFF was recalled for examination and having been previously sworn, was examined and testified further as follows:

Cross-examination. (Further)

By Mr. Kenney:

Q. You are Mr. Wulff?

A. Yes, sir.

Q. You are the same Mr. Wulff who testified in these proceedings yesterday?

A. Yes.

Q. You understand you are still under oath?

[Tr. A-774] A. Right.

Now you testified at some length about that document and after having reviewed your testimony have you concluded that it was erroneous with respect to this particular document?

A. I have.

Q. Now would you like to make a statement covering the error?

A. I would like to.

As you stated, Mr. Kenney, we covered the fact that there was a need for a price increase. What did Union Bag-Camp do about it? And I said that we announced a price increase after which I received the document for reference. The document referred to on page 12 of the transcript actually did not have anything to do with the price increase. It had to do with a problem that we faced when liner board was reduced and it precedes by probably thirty days subsequent documents that were handed to me having to do with an increase.

In item number 3 of the document we stated "We will make decisions on customer guidance only after exhausting all efforts to determine the level." We realized that at the time a board price reduction was published certainly many of our customers would be expecting us to reduce prices. [Tr. A-775] They would be expecting box prices to go down. We, as I stated earlier, felt that the board price reductions had already been discounted. We did not plan on taking customer guidance without attempting, if at all possible, to determine from competition if in fact a given competitor in a given account had reduced his prices.

On item number 4 of the document where we stated "We are prepared to sacrifice volume in the interest of maintaining our price stability", the price had eroded to the extent that there were a good many accounts that would have been totally unattractive to us if we had had to reduce further.

[Tr. A-35]

Thursday, March 5, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant Albemarle Paper Manufacturing Company: Robert P. Buford, Jr., John J. Adams, Charles F. Blanchard.

Other counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF ANTHONY J. BAGLEY

(PX-5)

[Tr. A-36] Q. Mr. Bagley, will you state for the record your full name and address?

A. Anthony J. Bagley, R.F.D. 1, Midlothian, Virginia.

Q. Are you presently employed in the corrugated container industry?

A. No, sir.

Q. When were you last employed in the corrugated industry?

A. October, 1963.

Q. By whom were you employed at that time?

A. Richmond Container, Division of Albemarle Paper Company.

Q. What was your position, sir?

A. At that time, I was Division Manager of that particular plant.

Q. How long had you had that position, sir?

A. Since September 9, I believe, 1959.

Q. During all of that time, was this plant a division of the Albemarle Paper Manufacturing Company?

A. That is right, sir.

Q. Prior to that time, your position?

A. I was President of Richmond Container when it was a corporation, owned 50 percent by me and 50 percent by Leo N. Donati.

[Tr. A-37] Q. And how long a period was this?

A. This corporation was formed on June 1 of 1954.

Q. When did it become a subsidiary?

A. September 9, 1959, Albemarle bought the assets of Richmond.

[Tr. A-38] Q. Mr. Bagley, have you ever been together in the company of your competitors and discussed matters which related to the container industry in the geographical area which we have described?

A. Yes, sir.

Q. Do you recall any specific instances?

A. Where this happened?

Q. Yes.

[Tr. A-39] A. It happened quite often. I have been in the company of the personnel of these companies in Richmond, once in New York, Baltimore, and Charlotte, North Carolina.

Q. With reference to Richmond, was this on one occasion or on more than one occasion?

A. More than one occasion.

Q. Do you recall a specific occasion in Richmond?

A. Yes, sir. I have met with competitors in the office of Herbert Mitchell of Dixie Container.

Q. What do you recall about that meeting, sir?

A. I have been in his office on more than one occasion. Any specific meeting, I can't pinpoint, but I have been there at least three times.

Q. What was the nature of the discussion on those occasions, sir?

A. Well, market conditions in our area.

Q. When you say market conditions, sir, what specifically do you mean?

A. The price level of corrugated containers in our area.

Q. When you say price level, are you referring to a specific dollar and cents number?

A. Well, I am sure there were occasions when a specific dollar and cents number was brought up, yes.

Q. Would this number be with reference to a specific customer?

[Tr. A-40] A. Yes, sir, it could have been.

Q. Were there occasions when a price level with respect

to a specific customer was discussed referring to prices to be charged in the future?

A. I can remember one particular meeting in New York that specific prices were mentioned. For all intents and purposes, the people who attended the meeting could have stayed home, because that fell apart and nothing was done further.

Q. Who attended that meeting, sir?

A. Do you want companies?

Q. Please.

A. Well, certainly Richmond Container was there, Continental Can, The Mead Corporation, Dixie Container, Starr Corrugated, and I am sure there were others, but those are the only ones that I remember.

Q. What individuals were there, sir?

A. I don't remember all of the people. Do I have to say that? Would it be unfair to anyone?

Q. The ones you remember.

A. Well, I was there representing Richmond Container; Jack Burnham, representing Mead Corporation; Isadore Ettra, deceased, representing Starr Corrugated; C. W. Throckmorton, representing Continental Can, which at that time was the Gair Company; Clifford Schroeder, Dixie Container. And at the risk [Tr. A-41] of mentioning someone who was not there, that is all I can think of.

Q. Were there others there?

A. I would think so.

Q. Where did this meeting take place?

A. At the Plaza Hotel in New York City.

Q. What sort of room?

A. It was in the sitting room of a suite.

Q. Do you recall whose suite?

A. I couldn't swear to whose suite it was.

Q. It was not your suite?

A. It was not mine, no, sir.

Q. How did you come to be there?

A. I was invited, I guess.

Q. Do you recall how the invitation was tendered?

A. No, I don't.

Q. What was the purpose of this meeting?

A. I think the intent was to correct some very poor prices in a particular account.

Q. Do you recall the account?

A. American Tobacco Company.

Q. Were there any other accounts discussed?

A. Not to my knowledge.

Q. When you say "correct", Mr. Bagley, will you tell me what you mean?

[Tr. A-42] A. What do you mean, "correct"?

Q. You said——

A. Oh, to correct?

Q. Yes.

A. Well, the prices had degenerated, and we wanted to bring them back to a more livable level.

Q. Would a more livable level involve raising the prices?

A. Yes, sir.

Q. Do you recall when this meeting took place?

A. No, sir, I do not. It was prior to our becoming associated with Albemarle Paper, which was prior to 1959.

Q. Was it after January 1, 1955?

A. Yes, sir.

Q. Was it concerned with corrugated containers sold to American Tobacco in the Southeastern United States?

A. That is right, sir.

Q. Can you tell me what result had been achieved when you left the suite?

A. Well, the intent was there, but nothing was ever accomplished. The price increase did not go in. I put my price increase in, but no one else followed suit, so——

Q. For the printed record, will you explain the motion——

A. I withdrew the price.

Q. At the time you left the suite, what arrangement had [Tr. A-43] been made?

A. What do you mean by arrangement?

Q. Had any decision been reached by persons other than yourself?

A. I announced what my price was going to be, and others did likewise, announced what theirs were going to be.

Q. Were these prices the same?

A. No, sir.

Q. What were the differences?

A. I don't remember, but it was negligible, the difference.

Q. Was it your understanding when you left the meeting

that the others present were going to charge the prices which they had stated?

A. Yes, sir.

Q. Going back to Richmond, Mr. Bagley, were you present at meetings of this kind at any time in Richmond?

A. Nothing similar to this.

Q. Can you tell me what the discussions were about at the meetings which you have attended in Richmond?

A. We discussed the price levels in the State of Virginia and Carolina, when the increase in the price of liner board was announced. Over the years that has been more or less of a signal to increase the price, to pass that on to the customer. That would be discussed.

[Tr. A-44] Q. Would the discussion be whether or not to pass this on to the customer?

A. That is right, sir.

Q. Would you state your intention?

A. Yes, sir. You mean at that time?

Q. At that time?

A. Yes, sir.

Q. Do you have a specific instance in mind, a time?

A. I do not. There was an increase in the cost of liner board in August or September of—you must have it in your records, I don't remember what year it was—but at that time we did increase the cost of corrugated boxes.

Another instance was when certain companies announced in the Wall Street Journal and in the official board market that they were going to increase the price of corrugated boxes. Some of them quoted a $7\frac{1}{2}$ percent increase, others from $7\frac{1}{2}$ to 10. That was discussed at some of these meetings.

Q. These are two specific occasions now to which you have reference, one when several companies announced that they were increasing their box prices?

A. They may be one and the same. They nearly happened simultaneously.

Q. But you do recall instances of meetings with reference to notices which appeared in the paper?

[Tr. A-45] A. That is right.

Q. Also with reference to the time when liner board prices were increased?

A. That is right.

Q. At this time did others announce their intentions?

A. You mean at the particular meeting?

Q. Yes, sir.

A. I am sure they did. I don't remember anyone in particular saying that, but I am sure they did.

Q. Do you recall what companies were represented?

A. Continental Can, Dixie, Miller, West Virginia Pulp and Paper.

Q. Do you recall any other meetings of this kind in Richmond?

A. I attended a meeting at the Raleigh Hotel in Richmond.

Q. Tell us about that meeting?

A. I was there, sir, but I don't remember any particulars about it. I was there, but I don't remember the particulars about it.

Q. Was there discussion at that meeting regarding prices?

A. Yes, sir.

Q. Were these prices to be charged to specific customers?

[Tr. A-46] A. Not that I remember. It could well have been, but I don't remember any particular account.

Q. Was the setting up of an East-West zone in the State of Virginia discussed?

A. Yes, sir.

Q. At that meeting?

A. I don't remember what meeting, but it was discussed.

Q. Tell us what you recall about the East-West zones in Virginia?

A. Well, there was a different base multiplier used in the western part of Virginia as against that used in the eastern part of Virginia, and it was because of the difference in the conditions in the two areas.

Q. Did you participate in any discussions with your competitors regarding the setting up of this base differential?

A. I am sure I did, sir, but when and with whom, I do not remember. We used the East multiplier and also the West multiplier.

Q. Did you participate in these discussions prior to your adoption of the East multiplier and the West multiplier?

A. Yes, sir.

Q. Were these discussions for the purpose of arriving at

a common multiplier to be used, one in the East and one in the West?

A. Yes, sir.

[Tr. A-47] Q. Do you recall the companies with whom these discussions took place?

A. Well, it would be the companies who would be affected mostly by this Virginia area.

Q. Could you name them, please?

A. In that case, it would be Continental Can, Dixie, Miller, and West Virginia.

Q. West Virginia Pulp and Paper?

A. Yes.

Q. What other discussions have you participated in in Richmond?

A. During the time you are speaking of?

Q. Yes.

FOR DEFENDANTS:

A. I don't remember any others. Prior to that, when I was with Robert Gair Company, I was a member of the Fibre Box Association, I attended meetings in New York and I would say other places.

Q. And at these meetings—

A. This was prior to the period of time you are talking about.

Q. Yes, I understand.

Were you a member of the Fibre Box Association after the formation of the Richmond Container Corporation?

A. No, sir.

[Tr. A-48] FOR PLAINTIFF:

Q. With reference to Charlotte, what meeting or meetings do you recall in Charlotte?

A. I remember a meeting that I attended in Charlotte—I attended two meetings in Charlotte. One was a Fibre Box Association meeting.

Q. And the other?

A. The other was not an official Fibre Box Association meeting.

Q. Tell us, please, what you remember about the Fibre Box Association meeting.

A. Well, it was a routine meeting as far as I could see. We were not members of the Association and we had been

invited to attend with the hopes that we would come in as a member. It was strictly a routine meeting.

Q. What happened during the formal part of the meeting? Do you recall?

A. Well, the Secretary of the Association would read the statistics concerning the zone area, the overall picture as compared with the overall picture of the country.

Q. Did this material increase price information?

A. No, sir, not at this meeting.

Q. Average price information?

A. They would have what is known as an overall [Tr. 49] multiplier which would be an indication of a level but as far as I was concerned, it was never anything other than a guide as to how the price structure compared today with, say, last year.

Q. Was that information of any use to you in pricing cartons to a customer?

A. No, sir.

Q. You were not sufficiently desirous of having that information to become a member of the Association; is that correct?

A. Well, we just didn't see fit to join the Association.

Q. At this meeting, were there any discussions or meetings which took place either before or after the formal part of the meeting?

A. After the formal meeting, I was engaged in a conversation with one of my competitors for a particular account.

Q. What competitor?

A. Herb Mitchell of Dixie Container.

Q. What account?

A. Burlington Industries.

Q. What was the nature of the discussion?

A. He wanted me to raise my prices and I wouldn't do it.

Q. During the formal part of the meeting, was there any mention of specific customers?

[Tr. A-50] A. I don't remember. It was a routine, if I may say, a dull meeting. Nothing impressed me.

Q. Do you recall any other discussion which took place at the time of that meeting or before or after?

A. No, sir.

Q. Do you recall any other occasions when you have been in the presence of your competitors and have discussed pricing of corrugated containers in the Southeastern United States?

A. I am sure that I have, sir, but I do not recall any specific time or place.

Q. Was this a common occurrence?

A. I wouldn't call it common, sir. It happened at infrequent times, no regularity at all.

Q. Was there any general purpose to the discussions?

A. I certainly think that pricing had an awful lot to do with it, yes.

Q. Did you have a purpose in participating in these discussions?

A. Yes, sir.

Q. What was that purpose?

A. Price levels.

Q. With regard to price levels, what about price levels?

A. It was an effort to prevent the decline of the price levels in our area.

[Tr. A-51] Q. Now, in addition to these occasions, have you ever sought or given pricing information with respect to specific customers to other manufacturers of corrugated containers in the Southeastern United States during the period from January 1, 1955 to October 14, 1963?

A. Yes, sir.

Q. With reference to the complaint, will you kindly look at the list of Defendants thereon and tell us with what individuals and with what Defendant you have either given or received pricing information with respect to a specific customer during this period in the Southeastern United States.

A. Container Corporation of America, Winston-Salem.

Q. The person?

A. Bill Colvin.

Q. And any other persons with Container Corporation?

A. J. D. Evans.

Q. Any others?

A. No, sir.

Q. Mr. Clay?

A. I don't think I know Mr. Clay. I may have met him, I don't know.

Q. Will you go down the list, Mr. Bagley, and Albemarle

Paper Manufacturing Company? Well, that would be yourself.

A. Yes.

Caroline Container, Mr. C. T. Ingraham.

[Tr. A-52] Q. Anyone else? Mr. Holbrook?

A. I know the gentleman but I don't remember discussing price with him, I may have.

Continental Can, Robert Groner. And John O. Johnson.

Dixie Container, Herbert Mitchell.

Miller Container, Harold Kyle.

Tri-State Container, Alan McDonald.

Q. West Virginia Pulp and Paper, David Orcutt.

Weyerhaeuser, I don't remember the names.

Q. The Old Dominion Box Company, have you given or received this information with anyone representing the Old Dominion Box Company?

A. To set the record straight, I have discussed prices with each of these people I have named but any particular account other than the one I mentioned earlier about Burlington and the American Tobacco Company, I don't remember any particular occasion or account but I have talked with them on prices.

[Tr. A-53] Q. Now, Mr. Bagley, in going through the list you omitted some companies. I would like to ask you specifically with regard to these companies. During this period from January 1, 1955, to October 14, 1963, have you ever given or received pricing information with respect to a specific customer in the Southeastern United States with any person representing Crown Zellerbach Corporation?

A. I do not know, sir.

Q. The International Paper Company?

A. I don't remember, sir, any conversation with anyone in International.

Q. The Mead Corporation?

A. Did I omit Mead before? I can't remember the guy's name. I talked with someone, I don't remember the name. If it were mentioned I would remember.

Q. Mr. Pridgen?

A. I have talked with Pridgen but not about anything in particular.

Q. Do you know Mr. Wainscott?

A. That is the boy, Bobby Wainscott.

Q. The Inland Container Corporation?

A. I am sure I have talked with people at Inland but I don't remember any particular conversation.

Q. Can you identify the individual with whom you have spoken?

[Tr. A-54] A. Yes, but I am afraid I might connect the man with the wrong company.

Q. Do you know Mr. Barney Roberts?

A. Yes, sir, that is the man.

Q. Owens-Illinois Glass Company?

A. No, sir.

Q. No conversations?

A. I beg your pardon. There again I don't know whether Mr. Kipnis was National at the time I talked with him or Owens-Illinois but my conversation with him was just social and had no particular account in mind at all. Nothing about prices.

Q. Any other individuals?

A. No, sir.

Q. St. Joe Paper Company?

A. No, sir.

Q. You have neither given nor received—

Mr. Adams: He said that.

Mr. Sliney: Yes, but will the witness complete his answer?

The Witness: I have never either given or received information from the St. Joe Paper Company.

By Mr. Sliney:

Q. St. Regis Paper Company?

A. No, sir.

[Tr. A-55] Q. With reference to giving or receiving information regarding prices of a specific customer in the Southeastern United States during the period from January 1, 1955 to October 14, 1963, did these discussions take place on the telephone?

A. I would think so in most instances.

Q. Was this a common occurrence?

A. No, it was not common. It happened several times during this period of time you are talking about.

Q. On what occasions?

A. I don't remember any specific occasions but I have talked with these competitors.

Q. Under what circumstances would you ask for this information?

A. There could be several reasons for the conversations. I received more calls than I placed. They had to do with prices of particular accounts.

Q. While you were employed by the Albemarle Paper Manufacturing Company who had the pricing authority at the Richmond plant?

A. There were two of us. Maurice Dozier and myself.

Q. Was this throughout the period from January 1, 1955 to October 14, 1963?

A. That is right, sir.

Q. Have you made long distance calls to obtain this [Tr. A-56] information?

A. I am sure I have but I don't know of any particular one.

Q. Have you received long distance calls requesting this information?

A. Yes, sir.

Q. Did you have a policy with respect to what prices you would give when it was requested from you?

A. It would be the current price or the last quotation, what we were currently selling a box for.

[Tr. A-57] Q. Mr. Bagley, after the meeting at which Mr. Dillard announced the publication of the Old Dominion manual, did you use that manual in pricing containers for sale to customers?

A. Yes, sir.

Q. Was this during the period from January 1, 1955 to October 14, 1963?

A. Yes, sir.

Q. In the Southeastern United States. Did you request— [Tr. A-58] I withdraw that.

Did you request a Gaylord manual?

A. No, sir.

Q. Did you receive one?

A. I don't think so. We may have, but I don't remember whether we did or not.

Q. Did you request an Inland manual?

A. No, sir, I don't remember requesting it.

Q. Did you receive one?

A. I don't remember whether we did or not. The reason it does not stand out in my mind is that for all intents and purposes they were both very similar.

Q. Which manuals do you refer to when you say both?

A. I presume Inland and the Old Dominion.

Q. And the Gaylord?

A. I am not familiar with that.

Q. Have you ever heard of a committee to issue or to revise a manual?

A. No.

Q. With reference to the information regarding specific customer prices which you gave upon request to your competitors did you have any policy regarding the accuracy of the information?

A. Yes, sir.

[Tr. A-59] Q. What was that policy?

A. Well, the right price. I don't know that is the policy but honesty is the best policy, we would tell them the right price.

[Tr. A-237]

Thursday, March 5, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Albemarle Paper Manufacturing Company: Robert P. Buford, Jr., John J. Adams, Charles F. Blanchard.

Other counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF M. F. DOZIER

(PX-13)

[Tr. A-239]. Q. Now, Mr. Dozier, I would like to ask you: What is your present occupation?

A. Sales Manager of Richmond Container Company.

Q. How long have you been in that position?

A. Since mid-summer of 1957.

Q. Now just before that, what was your position?

A. Salesman.

Q. With the same company, sir?

A. Yes.

Q. And for how long in years?

A. Since August 1954.

Q. Now, Mr. Dozier, who is responsible for pricing in your company?

A. Mr. Bagley and myself and myself beginning in mid-summer, 1957.

Q. As of October 14, 1963, what were your responsibilities so far as pricing is concerned?

A. To set the prices.

[Tr. A-240] Q. Now, would you describe for us, please, how price was established for a custom-made container? I would like you to just tell us in your own words, if you will.

A. Find from the customer his specifications, work up the box blank, figure out what machines it is going across and put a per thousand lot price on it.

Q. Let us get a little more detail on that. I presume your first step would be to work up an estimate on sizes and specifications. Is that true?

A. Yes.

Q. Who does that for Richmond Container? What type of personnel does that?

A. Salesmen to a limited degree. Most of it is done within my office and, the two boys who work for me. Do you want their names?

Q. No. After the specification has been determined, what is the next step in determining what price you will quote to the customer?

A. What knowledge I have of the account.

Q. Do you personally make the decisions as to the ultimate price to be quoted?

A. Substantially, yes, sir.

Q. Now, tell us what factors or what considerations go into your determining what the price will be that you are [Tr. A-241] going to quote?

A. Predominantly information I acquire from my salesmen.

Q. Do you use a manual of any type in arriving or partially arriving at your final price?

A. If you are referring to a manual insofar as a formulation for determining that box, yes.

Q. What is your designation of this material or compilation which you used? Well, you stated you used some form of printed materials to assist you in determining price.

A. Yes.

Q. What do you refer to that as?

A. I refer to it as a manual.

Q. Now, does this manual have any particular name? Does it go under the name of any particular company?

A. The one I am currently using does, yes.

Q. What is the name?

A. The Inland Manual.

Q. Will you tell us, please, how long you have used that particular manual?

A. About seven years.

Q. During the period up until October 14, 1963, that you have used this manual, according to your testimony, have there been revisions of the manual during that time?

A. To the best of my knowledge, no, sir, the manual is the same today as it was seven years ago.

[Tr. A-242] Q. By that, do you mean that the figures haven't changed or do you mean the format?

A. You figure an "RSC" box the same way today as you did seven years ago.

Q. Does that manual contain such items in it as a set-up charge or board level?

A. Yes.

Q. Now, first, has the set-up charge changed during the seven years you testified you have been using that manual?

A. To the best of my knowledge, no, sir.

[Tr. A-245] By Mr. Freeze:

Q. Now, Mr. Dozier, awhile back, I was asking you about how you computed the price. In addition to the use of the manual, what other means do you use in arriving at your price?

A. The formulation of the box and what you do to it.

Q. During the period prior to October, 1963, did you, at any time, have contact with persons, personnel of your competitors, concerning any type of pricing information?

A. Yes.

Q. Now, in these contacts, did you either obtain or give price information concerning specific jobs?

A. Seldom obtained, sometimes gave.

Q. Would you tell us what method normally was used in obtaining this information? Is it done by personal encounter, by telephone, or what method?

A. Predominantly telephone.

Q. During what period in the period of 1955 through 1963 did you personally either make or receive this type of information, either give or receive this type of information?

A. Between 1957 and the date, October 14, 1963.

Q. Now I would like to hand you the complaint again [Tr. A-246] and in the same list of defendants, all of whom you have previously stated are your competitors, I would like you to identify the persons for each competitor

with whom you have had contact. Now I would like to make it clear that I am speaking of occasions when you have either given or received prices on specific jobs by telephone?

A. To the best of my knowledge, Container Corporation of America, I know and have talked with Bill Colvin and J. D. Evans and Dolf Clay.

Carolina Container, I have talked with C. T. Ingraham, Carter Holbrook, and Thomas Webster.

Continental Can is Bob Groner, Bill Beams, John O. Johnson, and Crown Zellerbach, Gordon Clark.

Dixie Container, Herb Mitchell, John O. Johnson, Ernie Downes. I don't recall Dixie Container of North Carolina.

Inland Container, Barney Roberts.

I don't recall having any conversation with "Ip", International Paper Company.

Mead Corporation, Bobby Waincott and Bert Pritchett. Miller Container Corporation, Herb Kyle and Bill Noffsinger. Owens-Illinois, I have but I don't remember who it was.

St. Joe Paper Company, no. St. Regis, no.

Tri-State, Alan McDonald.

Union Bag-Camp, I think it is Ed Faulkner, Tom Fahy, and Frank Grimes, I believe it is.

[Tr. A-247] West Virginia Pulp & Paper, Dave Orcutt and Alan Holt.

Weyerhaeuser; George Elliott and before him was another fellow named Charley somebody, I can't remember his name.

And Waterbury, none.

Q. Now I would like to go back and clarify a few of these that you didn't give us names for. First, I am not sure I understand about International Paper. Is it your testimony that you know of no contact or you don't remember names? I am not sure which.

A. I know some people with International Paper Company but I don't believe I have had conversations, with reference to your question.

Q. How about Owens-Illinois, what is your testimony?

A. I have talked with them but I don't remember the fellow's name off hand.

Q. Would you have had any contact with Mr. Rosenbaum of Owens-Illinois?

A. Yes, Ken Rosenbaum, that is it.

Q. Do you think that is the only one with Owens-Illinois you had contact with?

A. I think prior to him there was somebody but I am not certain.

Q. Now you have stated or you did not give us any names of persons with whom you had contact at St. Joe Paper Company. Will you clarify that for us? You previously [Tr. A-248] indicated that St. Joe was a competitor in that you indicated all defendants were competitors.

A. To the best of my memory I do not recall talking with St. Joe.

Q. They are in competition with you, is that right?

A. Yes.

Q. Now will you tell us please as to St. Regis, are they in competition with you?

A. Not substantially but we bump into them.

Q. You do not recall any conversation with that company?

A. No sir.

Q. Will you state again what your recollection was as to contacts with Waterbury?

A. None.

Q. Mr. Dozier, you have stated that most of these contacts were by telephone. Is that right?

A. Predominantly, yes, sir.

Q. Would they normally be long distance telephone?

A. It depends on the competitors.

Q. Would some of them be by long distance?

A. Yes.

Q. Now have you ever had these contacts during the period prior to October 1963 by any other method other than telephoning?

[Tr. A-249] A. Yes, sir.

Q. Would you describe for us what those other methods would be?

A. I have met with them and I bumped into them, let us say socially someplace, on the golf course maybe.

Q. Now you just stated that you had met with them?

A. Yes.

Q. Will you tell us please what type of meetings that

would be where you had met and exchanged this price information?

A. Would you rephrase that, please?

Mr. Freeze: I will withdraw that.

By Mr. Freeze:

Q. Is it my understanding you testified you had these changes—these exchanges in social encounters and meetings. I understood you to state that. Let me ask you this. Have you had these exchanges at any formal meetings, formal or informal meetings, where there were as many as three persons present?

A. Yes.

Q. Will you tell us the type of meetings those were? Were they trade association meetings or some other type of meeting?

A. Well, I have been to a couple of the trade association meetings as somebody's guest and I have on other occasions [Tr. A-250] sat down and talked with—talked about a particular problem that we had.

Q. When was the most recent meeting of that type that you can recall?

A. The most recent one I think is about March of 1962.

Q. Where was that meeting held?

A. Dixie Container, in Mr. Mitchell's office.

Q. Now I asked you about meetings where you had had these exchanges of price information. What type of exchange of price information did you have at this meeting, March 1962?

A. Actually none.

Q. What was the purpose of the meeting insofar as you understood it?

A. What to do about the announced liner board increase.

Q. Had there been a recent liner board increase?

A. An announced increase, yes, sir.

Q. Do you happen to recall about when it was to be effective?

A. If I am not mistaken, it was March 1, 1962.

Q. Could you tell us about any other meetings which you may have attended, Mr. Dozier?

A. I have been to them, sir, but I am not aware of them right now.

Q. I would like to ask you about any other price changes in the board level which affected your product other than [Tr. A-251] the March 1962 change to which you have referred?

A. Changes in price level?

Q. Yes.

A. About six months before that, August-September of 1961, we tried to get approximately a ten percent increase. Prior to that the prices were what we thought was the gutter in those days.

Q. Now, Mr. Dozier, I was asking you a minute ago about your arriving at a price to be charged a customer or to be quoted your customer for a specific box. Will you describe for us please how you used the information which you obtained in these contacts with competitors in your price?

A. For information?

Q. Would you tell us please how you used it for information? Will you go into a little more detail how you worked out the price after getting this information?

A. I don't understand your question, Mr. Freeze. The basic principle I used is the information acquired from my salesmen and my own knowledge of related market. That is where we started.

By Mr. Freeze:

Q. Mr. Dozier, going back to the occasions when you exchanged price information as to specific jobs with representatives of your competitors, I would like to ask you [Tr. A-252] where you obtained the information to give to a competitor in response to his request?

A. From our estimate sheet.

Q. Would you tell us a little bit more about what an estimate sheet is, please?

A. The sheet on which we figure out per M price of the box.

Q. Do you keep those in a file or some other compilation in your office?

A. Yes, sir.

Q. Will you tell us, please, how long do you keep those? Do you have a system of keeping them a year, six months,

or two years, or how do you work that?

A. We keep them the current year and two years back. In other words, '64, '63, '62.

Q. At the end of three years, do you mean that they are then destroyed?

A. For all practical purposes, yes, sir.

Q. I presume that file is in your office, is that your testimony?

A. Yes, sir.

Q. When you give a price to a competitor is this price the most recent price at which you have sold?

A. Yes.

Q. Do you ever give this type of information in situations where you may have quoted a price to a customer but perhaps for some reason not consummated the sale?

A. Yes.

Q. You state that you take this information from your file. Do you give the person requesting the information the truthful information in all circumstances?

A. Yes, to the best of my knowledge.

[Tr. A-408]

Thursday, March 5, 1964

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Miller Container Corporation: Robert P. Buford, Jr., Richard G. Joynt, Charles F. Blanchard.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF HAROLD P. KYLE

(PX-22)

[Tr. A-409] Q. Mr. Kyle, for the record, will you state your full name and address, please?

A. My name is Harold P. Kyle. I live at 1883 Arlington Road, Southwest, Roanoke, Virginia.

Q. Would you state your position, please?

A. I am Chairman of Miller Container Corporation.

Q. As Chairman, are you the chief executive officer of the corporation?

A. I am.

* * * * *

[Tr. A-415] Q. Can you tell us, sir, what your purpose was in attending that meeting?

A. Yes. I was very much interested in passing on the pending or the actual price increase but wanted to learn the feeling of the other people similarly engaged concerning the passing forward of the increase and it was to learn their attitude toward it that I attended.

Q. Do you recall, sir, whether anyone at that meeting told you that they had been ordered to "pass forward," to increase their price?

A. I don't recall such a thing but it could have happened. The answer is no, I do not recall.

Q. Can you tell us, sir, what you did learn as a result of that meeting?

A. As I remember it, I left the meeting with some feeling of confidence that the price increase would be passed on.

Q. When you say passed on, sir, do you mean passed on by each of the companies which were represented at that meeting?

A. I got the impression that the persons concerned were desirous of passing it on. I don't know about each specific one but the general attitude, the attitude among them generally, seemed as I remember it to be desirous of the price increase being passed forward the increased cost.

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[Tr. A-418] Q. At, or about the time that this set-up charge was increased, sir, do you recall any possible discussions regarding the need for an increase in set-up charges?

[Tr. A-419] A. The need for an increased price was a constant topic of conversation. I am sure the set-up had its part in that.

Q. Can you tell me, sir, in connection with this discussion which was constant, where would these discussion take place?

A. Well, in general terms, I suppose any place that two or more might have occasion to talk about price, either within or without the organization.

Q. When you say two or more, sir, you mean?

A. Two or more people.

Q. Would these be competitors?

A. Possibly.

Q. Do you recall, sir, whether at any of the meetings that —do you recall attending any meetings at or about that time?

A. I don't recall specifically attending any meetings but I would like to try to confine the discussions to which I referred a few moments ago, to conversations between competitors. I have a very distinct recollection of my boss having several conversations with me about that topic of increased prices.

Q. Who was your boss at that time, sir?

A. The President of the Company, at that time, was J. Clifford Miller, Jr.

[Tr. A-420] FOR DEFENDANTS:

Q. Do you recall having discussions with him regarding

A. He urged me on numerous occasions to increase my price.

Q. Not with specific regard to set-up charges?

A. Any way I could do it.

Q. Sir, aside from these discussions with Mr. Clifford, would you say it was common occurrence for you to discuss this with your competitors?

A. To discuss what?

Q. The need for an increase in prices.

A. I would say it would be common, particularly at the times when raw material costs were increasing. At those times, I would say that it would be rather generally a topic of conversation, yes, sir.

Q. Among competitors?

A. Yes, between competitors and customers and within and without the organization.

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[Tr. A-425] Q. Oh, I am sorry. I misunderstood. Was it a common practice for you personally, sir, to seek confirmation of this sort from a competitor?

A. Yes.

Q. It was?

A. Yes.

Q. Was this true throughout the period from 1955 to—excuse me, from January 1, 1955 to October 14, 1963?

A. Yes. I had contacts with the competitors all during [Tr. A-426] that period, yes, sir.

Q. Did your competitors request the same sort of confirmation from you, sir?

A. Yes, sir.

Q. What would be the nature of your request for, well, confirmation in this case? For what would you ask?

A. In this case I probably said to Mr. Duggan, "We have this information. Is this right? Is this your price and are you performing those services?" and so on and so forth, in

an attempt to verify the information which was transmitted to me.

Q. Would this be the nature of the questions that you would ask on all of these occasions? Would there be other information you would seek from competitors on the occasion of these requests?

A. Each situation would have its own set of circumstances, of course. It might not always be a price, it might not always be a storage proposition, but whatever the circumstances relative to the case were, I would ask specifically about them.

Q. Do you recall, sir, what some of these circumstances were?

A. I think they would all be, most all of them would resolve around either specifications or price or service. They would all fall within the purview of those things.

[Tr. A-427] Q. Would these calls only be made, sir, where you had, as in this case, been told by the purchasing agent what his price was?

A. All the calls that had to do with verification, such as this one was, would have to be made, I would have to have something to verify it.

Q. Were there other calls?

A. Yes.

Q. Will you please tell us about those calls, sir?

A. Calls, you mean, where competitors were contacted?

Q. Yes, sir.

A. Yes, where we were desirous of making a quotation and had been otherwise unable to determine what the market was, we would then attempt to find out through our competitors or from our competitors.

Q. What would you ask your competitors, sir?

A. Again, it depends on what I had. I would in some fashion attempt to elicit from the competitor information as to what the price was.

Q. Can you tell me, sir, was this information also sought from you?

A. Yes.

Q. Can you tell me, sir, and would the competitor seek to elicit the same information which you have described?

A. Yes.

[Tr. A-428] Q. On those occasions, sir, can you tell me what the price was—I withdraw that question.

Can you define for me, sir, what you mean when you say, "What the price was"?

A. Well, the price at which items were being purchased from the competitors by this prospective customer.

Q. Would this be with reference to a specific customer?

A. Yes.

Q. Would that be true on all of these occasions, sir?

A. If a specific price were involved, it would always be with respect to a specific customer, yes.

Q. The information you would give to your competitor when he requested this information would be the price—what price would you give to your competitor when this information was requested of you?

A. Well, whatever price we had in our files.

Q. Would that include a price which you had quoted to a customer?

A. Which we had quoted? Yes, sir, it might.

Q. Although no order had been received in connection with that quote?

A. I suppose—yes, we certainly didn't sell everybody we quoted, and I suppose we gave price information upon quotations which we had made but had not sold, I suppose that is true.

[Tr. A-429] Q. Would it be true it was your practice to give the most recent price that you had quoted?

A. The most recent price? Yes.

Q. That you had quoted?

A. Yes.

Q. Is it possible, sir—Withdraw.

When you quoted a price to a customer, how was this quote delivered, sir?

A. Well, usually by mail. Frequently, however, it could be a telephone quotation or a hand-delivered quotation.

Q. Who would deliver it by hand, sir?

A. Usually the sales representative.

Q. Was it your practice to have quotes delivered through your sales representatives?

A. Not very frequently, but occasionally this would happen.

Q. The general practice was what?

A. Mail.

Q. From your office directly to the customer, is that correct?

A. Yes.

Q. Were there occasions, sir, when you received requests for this information in connection with accounts to which you had just recently mailed a quote or had just submitted the quote to your sales representative for delivery?

[Tr. A-430] A. I don't recall specifically instances of this. By recently, by recent submission, how do you mean?

Q. Well, what I am asking, sir, is whether there were occasions on which you gave this information upon request without knowing whether the price had yet arrived at the customer's office?

A. I don't recall any such occasions.

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Q. Before going into the complaint will you tell us the geographical area in which your company solicits business for the sale of corrugated containers?

A. Yes, sir.

Q. This would be for the period from 1955 to 1963 and restricted to the Southeastern United States as defined in the complaint and as I have previously defined it to you?

A. We solicit box business in an area within a 170 mile radius of Roanoke.

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[Tr. A-431] Q. The containers which are made by the Miller Container Corporation, are these containers made to standard specifications?

A. There are basic specifications which are laid down [Tr. A-432] in the uniform freight classification according to which the boxes are made. In that sense they are standards but as to size and construction and so forth, there is no standard.

Q. As to size, construction and so forth, how are these specifications determined?

A. Well, the consideration of the requirement, use requirement of the box and the measurement of the item that is to go in it.

Q. Would you say, sir, that the customer gives you the specifications for this box?

A. Not in all cases. In some cases we as prospective suppliers will develop a specification for a company.

Q. For a specific customer?

A. For a specific customer.

Q. Would those specifications differ from those of another specific customer?

A. Yes, they might.

Q. Are containers sold by the Miller Container Corporation on a delivered basis?

A. Yes, they are.

[Tr. A-433] Q. Is this true in all instances?

A. No, not in all instances, but in a vast majority of cases they are sold on a delivered basis.

Q. Sir, with reference to the complaint filed in this action, with what persons have you personally either given or received this information during the period? The defendants are listed on the front.

A. Yes, but I don't see any persons.

Q. I am asking you, sir, to name the persons with whom you have either given or received this information.

A. Very well. Container Corporation of America, Mr. G. W. Colvin, Mr. Adolph Clay, and Mr. J. D. Evans.

Albemarle Paper Manufacturing Company, Mr. A. J. Bagley and Mr. Maury Dozier.

Carolina Container Company, Mr. C. T. Ingram, Jr., and Mr. Carter Holbrook.

Crown Zellerbach, Mr. Gordon Clark.

Dixie Container Corporation of Virginia, Mr. Herbert Mitchell and Mr. Jehan Johnson in other years. He is no longer with Dixie Container.

Dixie Container Corporation of North Carolina, Mr. Joe Schwind.

Inland Container Corporation, Mr. Barney Roberts, [Tr. A-434] Mr. Frank Talbot.

International Paper Company, Mr. Hugh Reid.

Owens-Illinois, Mr. Ken Rosenbaum.

St. Joe, no experience.

St. Regis, no experience that I can remember.

Tri-State Container, Mr. Alan McDonald.

Union Bag-Camp Paper, Mr. Lou Wulff.

West Virginia Pulp and Paper, Mr. Dave Orcutt.

Weyerhaeuser Company, Mr. Duggan, Walter Duggan.

There is one other from Weyerhaeuser, whose name I can't recall at the moment. I will try to think of it and supply it.

Q. Do you know Mr. Wood?

A. Yes. Mr. Ivan Wood?

Q. Yes.

A. Yes.

Q. Would that be the person to whom you have reference?

A. No. Mr. Ivan Wood used to be located in this area but has been moved away. Since he has been moved away, I have not had any price exchange information with him.

Q. Do you know Mr. George Elliott?

A. I believe that I have met Mr. Elliott, but I can't recall.

Q. Would these exchanges have taken place with Mr. Elliott?

A. It is possible, although the name does not ring a [Tr. A-435] bell.

Waterbury Container, Mr. Joe Reynolds.

Q. Sir, have you ever exchanged information with a representative of the Old Dominion Box Company during the period which we have described?

A. Yes, sir.

Q. With what person?

A. Mr. Ivan Wood. He is the only one that I can remember, but there is one more. I can't recall his name.

Q. Thank you, sir. How were these requests for information transmitted?

A. Usually by telephone.

Q. Were long distance calls involved?

A. Yes.

Q. Sir, was it a common practice for you to receive or to give price information to your competitors throughout this period?

A. It was done throughout the period, yes.

Q. Was it done with any frequency?

A. Well, each time we thought we had a need for it, we tried to employ the device. We were not always successful in making the contact or in obtaining the information.

Q. Sir, was it a common practice that whenever you needed this information you would attempt to "employ the device"?

[Tr. A-436] A. It was a common practice for us to contact our competitors when we thought we had reason to do so.

Q. Sir, do you recall at any time a reference within the industry to an east zone or a west zone in the State of Virginia?

A. Yes, sir.

Q. Will you tell us what you recall?

A. Yes. I don't remember the time of this occurrence, but it was in the, I should think it was within the first half of the period that we are concerned with in this proceeding, that box manufacturers out of Baltimore began to make very significant raids or inroads, or whatever is the proper term, into Virginia business, business which had been previously handled by what we like to think of as local producers.

This seemed to be concentrated in Tidewater and west, past Richmond. In order to meet this situation, the competition, in the east and thus preserve what business we had there and still not destroy price-wise the business that we had in the west, the western part of the State, we quoted suitably in the eastern part of the State to meet the Baltimore competition and tried not to let that reflect into our activity in the western part of the State.

Now, it was at this time that we abandoned Tidewater [Tr. A-437] Virginia representation, we just pulled out at this time, but nevertheless there was a price differential which we employed as between the western part of Virginia and the eastern part of Virginia, which developed under the circumstances which I have tried to describe.

Q. Sir, when you say "we employed", to whom are you referring?

A. Miller Container.

Q. To your knowledge, sir, did any of your competitors employ this same price differential?

A. I am sure they did because eventually the Baltimore competition did not get all the business.

Q. Do you recall any discussions with your competitors concerning this circumstance?

A. Yes, I do.

This type of raiding is awful difficult to pin down and to evaluate in terms of the area involved. We, through contacts with our competitors, attempted to find out what localities in their experience were involved in this raiding business that was going on at the time.

Q. Did you attempt to determine what measures they would take in connection with this raiding?

A. Who is they?

Q. Your competitors?

A. I don't recall specifically having done so, but I [Tr. A-438] am more than just a little sure that the meeting of these prices and the elimination of this raiding was as important to them as to us, and I am sure that they felt as we did about it.

Q. In your efforts to meet this raiding, did you solicit the aid of your competitors?

A. Insofar as defining the territory in which it was going on, we certainly did, yes, sir.

Q. How did you go about soliciting this aid?

A. I don't recall. I am sure that it was done by telephone, and we did have a meeting among the local Virginia people on this subject. Now, when that was, I can't tell you, but there was a meeting.

Q. Do you recall who were present at this meeting?

A. I recall that Mr. Mitchell and Mr. Groner were there. I recall them specifically. I do not recall any others.

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[Tr. A-656]

Tuesday, March 10, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, The Mead Corporation: Stanley A. Freedman, Richard L. Wharton.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF V. C. SHUTZE

(PX-32)

[Tr. A-657] Q. State your name and home address?

A. Virgil Shutze, 3111 Arden Road, Northwest, Atlanta, Georgia.

Q. With whom are you employed, Mr. Shutze?

A. I am with the Mead Containers Division of the Mead Corporation.

Q. Is the Mead Container Division the division of the Mead Corporation which manufactures and sells corrugated shipping containers?

A. Yes.

Q. What is your present position?

A. I am National Accounts Sales Manager for the Mead Containers Division.

Q. Did you say National Sales Manager?

A. National Accounts Sales Manager.

Q. How long have you been in that position, Mr. Shutze?

A. Since January of this year.

Q. Prior to January what was your position?

A. Prior to that I was sales manager of the Southern Region.

[Tr. A-659] Q. Mr. Shutze, during the period starting in 1960 when you were sales manager for the Southern region and up until October 14th of last year, what were your responsibilities insofar as pricing of containers was concerned?

A. The pricing responsibility was up to the sales

manager of the individual plant but he, in turn, was my responsibility. I got into very few specific pricing instances. I was responsible for the general selling price at the plant but not to any degree on specifics.

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Q. Mr. Shutze, what was the policy of your company as of October, 1963, in regard to the seeking of price information from competitors?

[Tr. A-660] A. We received a memorandum in June, 1961, signed by the Chairman of the Board of Mead Corporation, stating emphatically that no exchange of price information could exist.

Q. Would you give me that date again, please?

A. It is in June. I am not sure of the date. It was June, 1961, I think.

Q. Now, what was the practice in this respect up until that date?

A. I think my sales managers had been exchanging some price information.

Q. Prior to that date in June 1961 did you ever have occasion to request price information from a competitor concerning any specific customer?

A. I probably did. I don't remember any specifics but I probably did.

Q. Could you name any persons from whom you did request such information?

A. I think I talked to Bob Groner with Continental Can and I talked with Frank Talbot at Inland Container and I also could have talked to Barney Roberts at Inland.

Q. Now by "talked" do you mean that you requested price information from them?

A. Well, now you are getting back to where I don't have too much memory on that. I can't tell you whether I called them or whether they called me but I remember talking [Tr. A-661] to them.

Q. And your talk included the request by either you or the other party of price information on a specific job, is that right?

A. That is right.

Q. Now still referring to the period prior to June 1961,

again, do you know if your sales managers received requests for pricing information on specific jobs?

A. I think they did.

Q. When they did receive such requests were—where did they obtain the information to supply to the person requesting it?

A. You had better rephrase it. I lost you.

Q. I will be glad to. When your sales managers received requests for pricing information where did they—from what source did they obtain the information?

A. If they wanted to give it they would go to the files to get it.

Q. On these occasions what information was requested?

A. I would imagine that they requested the price we had been charging the customer.

Mr. Freedman; Mr. Freeze, are you asking Mr. Shutze what requests were made to his sales managers?

Mr. Freeze: Right, insofar as he knows.

By Mr. Freeze:

[Tr. A-662] Q. Now insofar as you know did the sales managers under you supply this information upon request?

A. It is a little difficult for me to answer for them. I just don't think I could make a flat statement as to whether they did or whether they didn't.

Q. Still speaking of the sales managers under you, were they permitted by you to give such information?

A. Prior to the memorandum I don't remember giving them any instructions not to do it.

Q. Do you know, Mr. Shutze, if it was a common practice to supply that information upon request prior to June 1961?

A. Could I get that question again?

(The question referred to was read by the reporter.)

The Witness: Probably

By Mr. Freeze:

Q. Now what change took place in June 1961?

A. A memorandum came out from Mr. Whitaker who is

Chairman of the Board of the Mead Corporation in Dayton and he wrote this memorandum which was mandatory.

Q. What was the nature of the memorandum?

A. That we were not to discuss prices with any competitor.

Q. Now am I to understand that that was at all echelons without exception as to any personnel?

A. It was sent to every sales manager in the Mead Corporation [Tr. A-663] which included the Mead Container Division.

Q. Now, Mr. Shutze, did that prohibition continue thereafter?

A. It was relaxed somewhat in the fall of 1961 for a period of possibly a couple of months.

Q. How did you learn of the relaxation of the policy?

A. Well, I had complained to our management that we were instructed to increase prices and that I thought that it was practically impossible to increase the price if the purchasing agent stated that the other suppliers had not increased and we had no way of getting that information. Now if you increased it, you could take a chance or back off and keep your business.

Q. When you brought this out to your headquarters what was the result?

A. We just continued to lose position with our customers and it got to be an untenable situation.

Q. What I would like to know is how did the relaxation of the policy take place? Were you given permission?

A. Through a telephone call from the Division Headquarters in Cincinnati to me.

Q. What did they tell you, Mr. Shutze?

A. That they thought for me to do my job I would have to seek the level, the price level, in some of these accounts where we were groping.

[Tr. A-664] Q. Was this relaxation as to you personally or to you and your sales managers?

A. It was to me personally.

Q. You mean your sales managers were not given the right to seek the information at that time?

A. That is right.

Q. Did you relax the policy with your sales managers?

A. To some extent.

Q. Now I believe you stated that this relaxation of the policy occurred in the fall of 1961 and lasted about two months? Correct me if I am mistaken.

A. That is about right.

Q. Is that your testimony?

A. Yes.

Q. Then what happened?

A. Then we were called to Dayton and given a memorandum date of February 1962 and the memorandum was re-written in the same vein or the same substance as the first one and we were told that we were not to discuss any prices with any competitors and there would be no relaxation whatever and that is still in existence.

Q. Since February 1962 and up until October of last year that has continued?

A. Yes, sir.

Q. To your knowledge, has there been any relaxation [Tr. A-665] even down the line or any place in your region?

A. Well, if it did they would be going definitely against instructions.

Q. Now, going back to the date of June, 1961, when this policy was first enunciated, I believed you said, he—strike that.

During the period from 1960 when you became manager of the Southern Region and up until June, 1961, was there any period when you and your sales managers were not permitted to give and receive price information on specific jobs?

A. Will you let me have the question again?

(The question was read by the reporter.)

The Witness: No.

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[Tr. A-80]

Tuesday, March 10, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, The Mead Corporation: Stanley A. Freedman, Richard L. Wharton.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF DAVID J. BLOOM

(PX-7)

[Tr. A-81] Q. Will you state your full name, address and business address, please?

A. David J. Bloom, 1290 Beach Valley Road, Northeast, Atlanta, Georgia. Business address, Mead Containers, 950 West Market Street, Northwest, Atlanta.

Q. Your employer?

A. The Mead Corporation, Mead Containers Division.

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Q. Since 1957, sir, what position have you held and at what dates have you held them with the Mead Corporation?

A. In 1957 when Mr. Shutze went to New York I was appointed sales manager of the Atlanta District and I have held essentially that same job.

Q. What does the Atlanta District comprise?

A. The Atlanta District comprises the States of Georgia, Alabama, South Carolina, and east Tennessee.

Q. What are your responsibilities as sales manager, of the Atlanta District?

A. My responsibility as sales manager is to sell as [Tr. A-82] many boxes as I possibly can and I have full responsibility for the pricing of the boxes produced in the Atlanta plant.

Q. Does anyone share that authority, sir?

A. No, sir.

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[Tr. A-86] Q. With reference to the period between the spring of 1957 and late 1959 did you at any time request from a competitor the prices which he was then charging a specific customer?

A. Yes, I did. Past market requests.

Q. During that same period did you ever supply the—a competitor the price which you were then charging a specific customer?

A. Yes, I have.

Q. These questions have reference to corrugated?

A. Corrugated shipping containers.

Q. In the Southeastern United States?

A. In the area in which my plants operate, the states as I gave you before: Georgia, Alabama, South Carolina and east Tennessee.

Q. That area was the same then as it is now?

A. Yes, sir.

Q. During the period from late 1959 to October 14, 1963 have you ever requested from a competitor the prices which he was then charging a specific customer for corrugated containers in the Southeastern United States?

A. Would you repeat the question?

Q. During the period in late 1959 to October 14, 1963, have you ever requested from a competitor the prices which he [Tr. A-87] was then charging a specific customer for corrugated containers in the Southeastern United States?

A. Yes, I have up until the directive that was issued by the President of our Corporation, Mr. Morris, in June of 1961. Then after a slight relaxation in the fall of 1961 I was called into Dayton in the spring of 1962, the early part of 1962, and it was reiterated to me that I am to have no conversations with any of the competitors regarding anything nor even have any appearance of doing it. Since that time I have not sought or given any information.

Q. Are you able, sir, to more specifically identify the cut off date in 1962, the time, the month?

A. I would say it is April or May.

Q. Sir, during the period from late 1959 until April of 1962 have you at any time supplied the—a competitor the prices which you were then charging a specific customer for corrugated containers in the Southeastern United States?

A. April 1962? I had supplied past markets to June of

1961. Then I did not supply any until the fall of 1961. In a limited way, yes, the early part of 1962 as I explained to you but nothing since the early part of 1962.

[Tr. A-88] Q. Sir, during the period from the spring of 1957 to late 1959 did you consider the Container Corporation of America a competitor of yours?

A. Yes.

Q. Would you name for me please the individuals with that company to whom you gave the information with respect to prices of specific customers which we have previously mentioned?

A. I have talked with Mr. Dick Lindsey, Chattanooga, Mr. Alday, Fernandina, Florida. And Mr. McCorkle, I believe, in Knoxville.

Q. Did you during this period also receive information of this kind from these individuals?

A. I would say that I did.

[Tr. A-89] Q. The Albemarle Paper Manufacturing Company?

A. No, sir.

Q. The Carolina Container Company?

A. Yes, sir.

Q. Did you consider Carolina Container Company a competitor of yours?

A. In South Carolina.

Q. To what individuals of the Carolina Container Company have you given the information with respect to a specific customer's price which we have previously discussed?

A. I recall I have not done any of this now in about two years.

Mr. Wharton: The question is still the period 1957 to 1959?

Mr. Sliney: Yes. I am limiting this question entirely to that period.

The Witness: I couldn't say. I don't recall. I have given them past market information on some occasions.

By Mr. Sliney:

Q. But you cannot identify the period?

A. No, sir.

Q. Can you identify the person?

A. It could have been Carter Holbrook.

Q. Is it your recollection that it was Carter Holbrook?

A. I think it could have been. It has been so long ago.

[Tr. A-90] Q. Do you know Mr. Ingram?

A. I have met Mr. Ingram. It could have been Mr. Ingram, it has been so long ago.

Q. Have you received this information during this period from Mr. Ingram or Mr. Holbrook?

A. I could have. I just don't recall.

Q. Sir, perhaps it will ease your problem if instead of attempting to identify individuals you will tell me whether during this period you have given or received from a competitor the price which you were then charging or which he was then charging a specific customer.

Now by reference to the period again I am attempting to cover the period from the Spring of 1957 to late 1959. I would like to start once again if I may.

A. All right.

Q. The Container Corporation of America?

A. Yes, sir.

Q. Were they competitors of yours?

A. Yes, sir.

Q. The Albemarle Paper Manufacturing Company?

A. No, sir.

Q. Were they competitors of yours?

A. Not considered as such. Never heard of them in my area.

Q. The Carolina Container Company?

[Tr. A-91] A. Yes, sir.

Q. Were they competitors of yours?

A. Yes.

Q. The Continental Can Company, Inc.?

A. Yes, sir.

Q. Competitors?

A. Yes, sir.

Q. Crown Zellerbach Corporation?

A. Yes, sir.

Q. Competitors?

A. Yes, sir.

Q. The Dixie Container Corporation?

A. No, sir. I would not consider them as competitors in South Carolina.

Q. Dixie Container Corporation of North Carolina?

A. No, sir.

Q. The Inland Container Corporation?

A. Yes, sir.

Q. The International Paper Company?

A. Yes, sir.

Q. With each of these companies now you have either given or received information which we have previously discussed and you consider those that you have named as your competitors, is that right?

A. I have given or received—will you repeat the [Tr. A-92] question?

Mr. Freedman: Could you divide the question into two separate parts? I think the witness is confused. He could answer yes to one half and not the other. Also could you restate the information about prices which was previously discussed? I think that is kind of confusing. The witness testified that he did give and receive past market information.

FOR PLAINTIFF:

Mr. Sliney: Let us do this. Will you define for me what you mean when you say past market information?

The Witness: Past market information is the price at which the last order and the most recent order of boxes went for or was quoted at.

FOR DEFENDANTS:

By Mr. Sliney:

Q. With reference only to whether or not these companies were considered by you to be competitors of yours?

A. I am with you. I have answered to the best of my ability yes or no so far.

Q. Fine. Then I will pick up with the International Paper Company.

A. Whether I either gave or received?

Q. Let us just restrict ourselves—

A. As to whether or not I consider them competitive?

Q. Yes.

[Tr. A-93] A. Yes, I consider International Paper Company a competitor.

Q. Miller Container Corporation?

A. No, sir.

Q. Owens-Illinois Glass Company?

A. Yes, sir.

Q. St.-Joe Paper Company?

A. What is the period again?

Q. The Spring 1957 to late 1959.

A. I don't know, sir, exactly.

Q. St. Regis Paper Company?

A. Yes, sir.

Q. Tri-State Container Corporation?

A. Yes, sir.

Q. Union Bag-Camp Paper?

A. Yes, sir.

Q. West Virginia Pulp & Paper Company?

A. Yes, sir.

Q. Weyerhaeuser Company?

A. Yes, sir.

Q. Now, sir, I would ask you the same question with regard to the period from late 1959 to October 14, 1963. Did you consider these companies to be your competitors? Container Corporation?

A. Yes, sir.

[Tr. A-94] Q. Albemarle Paper Manufacturing Company?

A. No, sir.

Q. Carolina Container Company?

A. Yes, sir.

Q. Continental Can Company?

A. Yes, sir.

Q. Crown Zellerbach Corporation?

A. Yes, sir.

Q. Dixie Container Corporation?

A. Yes, sir.

Q. Dixie Container of North Carolina?

A. No, sir.

Q. Inland Container Corporation?

A. Yes, sir.

Q. International Paper Company?

A. Yes, sir.

Q. Miller Container Corporation?

A. No, sir.

Q. Owens-Illinois Glass Company?

A. Yes, sir.

Q. St. Joe Paper Company?

A. Yes, sir.

Q. St. Regis Paper Company?

A. Yes, sir.

Q. Tri-State Container Corporation?

[Tr. A-95] A. Yes, sir.

Q. Union Bag-Camp Paper Corporation?

A. Yes, sir.

Q. West Virginia Pulp & Paper Company?

A. Yes, sir.

Q. Weyerhaeuser Company?

A. Yes, sir.

Q. Waterbury Corrugated Container Company, otherwise known as Blue Ridge Container?

A. Yes, sir.

Q. With reference to the entire period, from the Spring of 1957 to April of 1962, this being the date that you have given as the final cut off of contacts with competitors—

A. All right.

Q —have you at any time during this period either given or received from a competitor the information which you have referred to as past market information?

A. Yes, I have.

FOR PLAINTIFF:

Q. With reference to the occasions when you have been called by a competitor—I will withdraw that. How have these requests for information been received by you?

A. By telephone call.

Q. On these occasions where do you obtain the [Tr. A-96] information to supply to the competitor?

A. From my files.

Q. Would you describe the files?

A. We have a classification card which shows the last price which the box was sold. I might call it a specification jacket in which we keep an estimate, keep our cost, and we record the last price on the back of the card at which the

boxes were sold. I call my sales servicing manager and ask him to bring in the estimates in the jacket. I look at the price and I relate to a competitor as a certain base or a certain base less a percentage as shown on the Inland estimating manual which I do use as one of my estimating tools.

Q. Which manual, sir?

A. Inland.

Q. Do you make any notation on the card at this time?

A. No, sir.

Q. On those occasions when you have sought this information from your competitors, what have you asked for?

A. When I have sought the information?

Q. Yes, sir.

[Tr. A-97] A. I asked what did the last order of boxes go for or what is your most recent level that you last sold for.

Q. With respect to a specific customer?

A. Correct.

Q. You always received this information upon request?

A. Practically always.

Q. Have you ever refused to give this information upon request?

A. No, sir.

Q. Is it true that the information which you give in all cases comes from the estimate—is it true that the information which you have given in all cases comes from the records you have referred to as the specification jacket?

A. Or the estimate I run on the Inland Manual, one of the two. I have them together to look at it. The Inland Manual, as you are already aware, has many board decimals, board factors or level. I would say our last price was \$13 or \$14.30 less 5 percent, or whatever the case may be.

Q. Sir, you earlier included within your definition of past market, quotations, is that correct?

A. Yes, sir, that have been made.

Q. Do these quotations appear on the specification jacket?

A. No, sir. They appear on the estimate.

Q. On the estimate which is included within the jacket?

[Tr. A-98] A. Correct.

Q. When giving this information during the period to which we have reference, do you refer both to the estimate and to the specification jacket to see whether there is a quotation later than the last sale?

A. If there was a quotation later than the last sale, it would so show. It would be shown on the estimate.

Q. Would that be the figure which you would have given, the later quotation?

A. If we had quoted, that would be the figure, yes.

Q. During this period, sir, when you gave this information to competitors, what benefit did you derive from this service?

A. Well, I had hoped that they, in turn, would give me the same information.

Q. Sir, when you obtained this information from a competitor, were you able to compute the price of a box from the information which he had given you?

A. Yes.

Q. Is this the way in which you used the information which you obtained?

A. Yes.

Q. Did the giving or receiving of this information involve long-distance calls?

A. Yes.

[Tr. A-99] Q. Under what circumstances did you seek this information from competitors?

A. When we have an inquiry from our salesman who on occasions bring samples in, we can see what the competition is by looking at the box maker stamp or the salesman tells us who the competition is and sometimes the salesman also tells us what the purchasing agent told him the price was.

We take that price and run an estimate on it, run our cost on it, and if it looks reasonable, I exercise my judgment as to whether or not I should use it or perhaps call a competitor to see if the information I have is correct.

Q. Are there any other occasions on which you would seek the information from a competitor?

A. Yes. As a last resort, if I did not have any information from my salesman, as a last resort I would call a competitor.

Q. This again is with reference to the period prior to April of 1962?

A. Yes, sir. I want to reiterate again that I have not been in any conversation since 1962. I think the month could be April. I have not sought or received or even had the appearance of it.

FOR DEFENDANTS:

Q. Mr. Bloom, I show you document MEA Number 00744. I have not made copies of this document, but it is a very simple [Tr. A-100] matter to tell you what it purports to be.

The first page purports to be an envelope bearing in the upper lefthand corner the words "Corrugated Container Division of Continental Can Company, Inc.", with the address 501 Coolidge Street, Post Office Box 324, New Orleans, Louisiana. There is a date stamp, August 11, 1961, and it is addressed to Mr. David J. Bloom, Care of Mead Atlanta Paper Company, 950 West Marietta Street, Northwest, Atlanta, Georgia. The postmark is August 9, 1961.

The second page is what purports to be an announcement by Continental Can Company to their customers dated August 7, 1961, and indicates generally that there will be an increase in the price of corrugated containers.

The third page is dated August 9, 1961, and it reads: "We have advised the attached list of customers of the price increase in compliance with the enclosed card. Continental Can Company, Inc., Corrugated Container Division."

There then follows a list of customers, what purports to be a list of customers, 14 pages long.

A. We were not Mead Atlanta Paper Company in 1961.

Q. Sir, do you recall receiving that envelope and the items attached?

A. Yes, I do.

Q. What do you recall about receiving it?

A. This came in the mail unsolicited, and I am certain [Tr. A-101] it is in error, because 90 percent of these accounts do not operate within my area. Why I got it, I could not tell you. I would say that the envelope was misdirected.

Q. Was the information contained therein of any value to you?

A. None whatsoever. I couldn't identify a single account on the first page. Again I would say this was misdirected to me. I am guessing, would say this is an intercompany, strictly a guess, a inter-company Continental Can.

Q. Did you discuss this with any representative of the Continental Can Company?

A. I did not.

Q. Did you discuss having received this with anyone?

A. I did not.

[Tr. A-547]

Friday, March 6, 1964.

APPEARANCES:

For the Plaintiff: Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, International Paper Company: Henry L. King, Davis Polk, Byron E. Kabot, Arthur Cooke.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF H. L. REID

(PX-28)

[Tr. A-548] Q. Mr. Reid, will you state your full name and address, please?

A. My name is Hugh L. Reid, 212 Screven Street, Georgetown, South Carolina.

Q. Your employer, sir?

A. International Paper Company.

Q. Your position?

A. I am the plant General Manager, Container Division, Georgetown, South Carolina.

[Tr. A-550] Q. Mr. Reid, we are concerned with the period from January 1, 1955 to October 14, 1963, and we are concerned with the area defined in the complaint filed in this case as Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, and Kentucky. And referred to herein as the Southeastern United States. During the period under discussion, have you had pricing authority at the Georgetown plant?

A. Yes, I have.

Q. During this period, sir, have you at any time found yourself in the company of your competitors or representatives of your competitors at a time when prices were mentioned?

A. Certainly, the matter of prices, I would. Insofar as average trend line prices were discussed at Fibre Box Association meetings. If you are not familiar with those, I will be happy to tell you what I know of them. The industry [Tr. A-551] Association analyzed on a broad basis for certain standard type containers to indicate market trends.

In the course of Fibre Box meetings, these statistics were generally read by the Secretary and certainly there would be in a case of decided changes in price trends, a discussion that might indicate that prices were certainly not what should be justified by good volume or possibly they were improving. But these, of course, related only to broad averages reflecting areas called either zones or regions in the entire country. On those occasions, someone might make comments about prices.

Q. These occasions to which you refer were all formal FBA meetings?

A. That is correct, sir.

Q. For the record, will you repeat the phrase and define it? I understood it as average train line prices.

A. Trend, t-r-e-n-d.

Q. The comments and discussions you referred to took place during the formal FBA meetings?

A. This is correct.

Q. Did this occur throughout the period to which we have reference?

A. Yes, this has always been a part of the Association's standard meeting to present trends in prices.

Q. There was no mention of a specific customer at any [Tr. A-552] time?

A. There was not.

Q. Have there been any other occasions when you have found yourself in the presence of your competitors and prices of corrugated containers in the Southeastern United States were mentioned?

A. I don't recall a specific instance where that is the case.

[Tr. A-556] Q. Who would have told you that you were competitive?

A. The buyer would be the source of most of my information.

Q. Did you elect to use the Gaylord manual and to compute a price on the Gaylord manual as a general practice during the period 1958, 1959 and 1960?

A. Our practice consistently was to compute prices or suggested prices on the International Paper Company manual. I wouldn't say that we generally, insofar as the number of daily transactions that went on in my office, used the Gaylord manual.

Q. In making quotes to customers whom you were not then servicing would your answer still apply?

A. I think I would say again it was not generally used.

[Tr. A-559] FOR PLAINTIFF:

Q. Have you on occasion during the period from January 1, 1955, to October 14, 1963, requested a competitor to give you the price being charged a specific customer for corrugated containers in the Southeastern United States?

A. On some occasions, yes, I have asked my competitors to verify price information that would come in from the field. If in the instance I felt that it warranted our making the effort to meet a competitive price which the buyer had offered us a chance to meet, and I had reason to want to make certain it was a real price, I have called my competitors, yes.

Q. Were these occasions when you sought verification of a price which you had obtained from the field the only occasions on which you requested this information from competitors?

A. No. They were the majority of the instances, but not exclusively.

Q. What other occasions?

A. If I had a request from the field, that is our salesmen, to quote a price and the circumstances I felt justified our making an effort to obtain the business, then I might call a competitor and ask him for his last transaction.

[Tr. A-560] Q. Were these two situations the only occasions on which you made such requests?

A. Those are the only ones I am aware of.

Q. Was this continuous throughout the period from January 1, 1955, to October 14, 1963?

A. No, it was not. Approximately two years ago I was told that I was no longer to discuss a price with my competitors, either to give it or receive it, and I didn't continue the infrequent practice that it was beyond that.

Q. Do you have a date, sir, that indicates the cutoff?

A. I don't have. It was a verbal instruction, and I can't pinpoint the day.

Q. From whom did you receive the instructions?

A. I believe I received it from my superior, Mr. Agar.

Q. Did you inform any of your competitors of this change?

A. In those instances where someone might call me and ask me for information, I would tell them that I was no longer interested in offering the information, and that seemed to be a conclusion that they were willing to accept.

Q. Were there any other occasions on which you informed competitors of this change?

A. None other than by that method.

Q. During the period prior to this change and after January 1, 1955, have you given upon request by a competitor [Tr. A-561] the most recent price which you have charged a specific customer?

A. Yes, I have.

Q. Sir, what was your source of information upon these occasions?

A. My own files.

Q. And of what do those files consist?

A. Purchase orders. At one period quotations, estimates.

Q. Did you personally go to a file of purchase orders to obtain this information?

A. In some cases, yes.

Q. Do you keep a record, a summary record of any kind such as a card file?

A. A card file of what, sir?

Q. That would list a customer's name and the various transactions which have taken place between that customer and yourself?

A. We have what we call an original order file that carries copies of all the customers' orders.

Q. When you gave this information would it be the exact price appearing in your files?

A. Yes, it would.

Q. Have you on any occasion given false information to a competitor?

[Tr. A-562] A. No, not to my recollection.

Q. Is it your recollection that you received more requests than you made during this period?

A. There would not be a great deal of difference but I would think that I probably received more than I asked for.

Q. Do you spend most of your time at the plant?

A. Yes, sir, I spend the majority of my working time at the plant.

Q. When you were at the plant and prior to the change can you tell me to what degree of frequency you requested this information?

A. It would be difficult, very difficult to name a specific number. You would have to recognize that the pricing conditions were subject to change. For example, in the event of a change in the price of container board which would have the ramifications of market price changing throughout the entire territory. The frequency on the occasion of that would be quite different from when there was no pressure on price either upward or downward. But certainly I don't want to give you the impression that I spent my time trying to determine prices. I had many other things in operating the plant that I felt called on to do.

So, these occasions represented a small part of the working time that I put in.

[Tr. A-563] Q. Sir, during the periods when there was no pressure on price what price would you charge a customer whom you had been previously serving on a box which you had been previously supplying?

A. I would continue to charge the same price that I had charged on the last sale.

Q. Sir, when there is a change—I withdraw that question. How many changes have there been in the price of container board during the period to which we have reference?

A. I am not able to answer. There have been numerous changes but I don't believe I could count them up without referring to the record.

Q. On each of these occasions would the volume of calls increase?

"A." I would think that there certainly would be more calls on these occasions.

[Tr. A-564] Q. Mr. Reid, at the time there is a change in the price of liner board with approximately what frequency in terms of a day will you make or receive phone calls to or from competitors?

A. This again is certainly not any pattern with any regularity. If I were to hazard a guess I might say 10 or 12 calls a month rather than a day as you have asked me. Many days would pass and there would be no calls and there might be two or three on one day.

Q. Your answer is confined to a period immediately following an increase in the price of liner board. Is that right?

A. That is right.

Q. At times when there was no "pressure" on price what degree of frequency, approximately how many times a month would you make or receive these calls?

[Tr. A-565] A. Possibly only a few times a month, two or three.

Q. Did these calls during the time that you made or received them involve long distance calls?

A. Yes, sir.

Q. In each case where you placed the call you requested the last price which your competitor had charged a specific customer?

A. That is right.

Q. In each case when you received the call you gave the last price which you had charged a specific customer?

A. That is true. I will state that in the very early part of the period my interpretation of a past transaction had not been this case until I was instructed to the contrary. I had been of the opinion that a past transaction indicated a quotation that had been submitted and to all intents and purposes was a final offering. Possibly around 1958 I was instructed that the sale must represent the concluding factor of a past transaction.

Q. Do you recall, sir, under what circumstances you personally began making or receiving the calls?

A. No, sir.

Q. Do you recall how you obtained the impression that a submitted quote was a past transaction?

A. Over many years in the box business I had always felt that that was considered a proper interpretation.

[Tr. A-566] Q. At the time you personally gave a quoted price to a competitor where a sale had not been so consummated, did you in all cases have knowledge that that quote had been received by the customer?

A. No, sir.

Q. Have you, sir, on any occasion, furnished the price which you had charged a specific customer to a competitor without his having requested it?

A. Not to my recollection.

Q. Have you ever received a price from a competitor without having requested it?

A. I have received pricing manuals in our office that have not been requested.

Q. A price with reference to a specific customer?

A. I don't recall that.

Q. Having obtained the most recent price which a competitor had charged a specific customer from the competitor, what price would you quote in the majority of cases to that customer?

A. In the majority of cases when I felt that to name the same price that the customer was paying represented the highest price that I could obtain, yes, I would quote the same price that my competitor was charging.

Q. Sir, with reference to the Defendants listed on the [Tr. A-567] copy of the complaint which you have before you, as I read them, will you please give us the names of the individuals with those companies to whom you have given or from whom you have received the most recent price charged a specific customer, during the period from January 1, 1955 to October 14, 1963 in the Southeastern United States?

A. I would like to make this statement, that I have in numerous instances talked to my competitors regarding labor problems, production techniques, many other reasons, and I know many of these people, and to rely on a specific pricing

situation where I might have called them, I will give you the best answer that I can.

Q. Please, sir.

I am asking not merely for occasions when you have called them but for occasions also when they have called you.

Container Corporation of America.

A. W. G. Colvin and Dolph Clay.

Q. Sir, where you are unsure as to whether or not the conversation concerned price, will you please so state?

A. All right, sir. I would say on the latter name I was unsure.

Q. Albemarle Paper Manufacturing Company.

A. No, sir.

Q. Carolina Container Company?

A. No, sir.

[Tr. A-568] Q. Continental Can Company, Incorporated?

A. Robert Groner.

Q. Do you know Mr. Beams?

A. I know Mr. Beams. I am not sure that I ever discussed a price with him.

Q. Do you know Mr. Johnson?

A. Yes, sir.

Q. Is your answer the same for Mr. Johnson?

A. That is correct.

Mr. King: As for Mr. Beams?

Mr. Sliney: As for Mr. Beams, yes.

By Mr. Sliney:

Q. Crown Zellerbach Corporation?

A. Gordon Clark and I am not sure of any others.

Q. Dixie Container Corporation.

A. Herb Mitchell. That would be all.

Q. Inland Container Corporation.

A. Barney Roberts.

Q. The Mead Corporation?

A. Dave Bloom. I am not sure beyond that.

Q. Do you know Mr. Wainscott?

A. I do.

Q. What is your answer as to Mr. Wainscott?

A. I am not sure as to Mr. Wainscott.

Q. Miller Container Corporation?
[Tr. A-569] A. No, sir.

Q. Owens-Illinois Glass Company?

A. Ken Rosenbaum, Harold Frank. Those are all I know.

Q. St. Joe Paper Company?

A. No.

Q. St. Regis Paper Company.

A. Pete Petrie.

Q. Tri-State Container Corporation?

A. Alan McDonald.

Q. Union Bag-Camp Paper Corporation.

A. John Butler is deceased.

Q. Do you know Mr. Grimes?

A. Yes, I know Mr. Grimes.

Q. Your answer as to Mr. Grimes?

A. I am not sure.

Q. Do you know Mr. Faulkner?

A. Yes.

Q. Your answer as to Mr. Faulkner?

A. I am not sure but I could not be specific about a conversation with him.

Q. Do you know Mr. Pritchett?

A. Yes.

Q. Your answer as to Mr. Pritchett?

A. No, I am not sure.

Q. West Virginia Pulp and Paper Company?

[Tr. A-570] A. I am not sure of that.

Q. Your answer is, "I am not sure"?

A. I am not sure.

Q. Weyerhaeuser Company?

A. George Elliott.

Q. The Waterbury Corrugated Container Company?

A. No, sir.

Q. Sir, the Old Dominion Box Company is not listed but I would ask you the same question with regard to the Old Dominion Box Company.

A. I couldn't recall a specific case of talking to them about price.

Q. Sir, with reference to the Albemarle Paper Manufacturing Company, the Carolina Container Company, the Miller Container Corporation, the St. Joe Paper Company, I understood your answer to be, "no".

A. I was not sure.

Q. With reference to West Virginia Paper Company, I understood your answer to be, "no".

A. No, I am not sure that I have.

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[Tr. A-668]

Tuesday, March 10, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Inland Container Corporation: Louis A. Highmark, McNeill Smith.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF FRANK TALBOT

(PX-33)

[Tr. A-670] Q. Mr. Talbot, with whom are you presently employed?

A. Inland Container Corporation.

Q. What is your present position, sir?

A. Vice President, Eastern Region Sales Manager.

Q. How long have you been in that particular position, Mr. Talbot?

A. About a year.

Q. What was your position before that?

A. Southern Region Sales Manager.

[Tr. A-671] Q. For approximately how long?

A. Approximately eight years.

Q. Now, before that time, were you also with Inland Container Corporation?

A. I was.

Q. In what capacity?

A. As sales manager.

Q. In what territory?

A. Of the Macon Plant.

Q. And for approximately how long?

A. 1946 to the change in job in 1955.

[Tr. A-672] Q. Now in connection with your pricing operations, Mr. Talbot, do you have responsibility for pricing within the area defined by you as the Eastern Region?

A. I have supervision over the pricing. However, I do not get into the day to day transactions.

Q. And within each of the three plants in this area, in the Southeastern United States, who has responsibility for pricing for each plant?

A. The Sales Manager.

[Tr. A-673] Q. Mr. Talbot, in arriving at the price to be quoted to a prospective customer for a container, did your sales managers during the period 1955 to October 1963 at times contact representatives of competitors in connection with [Tr. A-674] price information?

A. If you mean that they requested price information from competitors of past transactions, yes.

Q. Was that done during that entire period?

A. Yes. It was done for a long time in this industry.

Q. Now were these contacts made by your sales managers, your plant sales managers?

A. Right.

Q. Did you at any time make the contacts, yourself?

A. Very infrequently.

Q. Would you tell us, please, under what circumstances you would personally contact your competitors?

A. It would usually be done in the absence of the sales manager on a sales trip, and I would take the requests in lieu of the sales manager.

Q. Now, Mr. Talbot, in these, what I have termed, contacts, did this include the giving of price information on jobs for specific customers and the receiving of that type of information?

A. Not necessarily. I may have requested the information from the competitor, but at that time did not have any reason to request information of him.

Q. I am not sure I understood your answer. Let me ask you this. Did you request information from your competitors concerning prices on specific jobs, jobs for [Tr. A-675] specific customers?

A. At the time that I requested information?

Q. No, I am just asking, did you during the period 1955 to 1963, at times personally request price information from your competitors on specific jobs.

A. Very infrequently, only at times when I was acting for the sales manager.

Q. Now, did you at times give this type of information in response to requests from your competitors?

A. If there was any urgency, I would give the information. If not, I would take the information that they were requesting and refer it to the sales manager on his return.

Q. Now would it be your testimony that such giving of information concerning specific jobs and receiving of such information was normally done by sales managers rather than yourself?

A. I would, yes.

Q. Now, on those occasions when you personally either gave or received specific information on jobs, how did you obtain the information requested?

A. I would call for the file on that particular customer that the competitor requested information on and obtain the information from our file.

Q. Were the files kept in your headquarters or did [Tr. A-676] that necessitate contacting your plant?

Q. If it was at Macon, I had the information in the general offices of our Macon plant. If it was the outlying plant, of course I would place the call to the sales manager—if not to the sales manager who was absent, to his assistant.

Q. Will you tell us, please, what information you had in your files?

A. We would have the past transactions, the order, on each estimate we make up for pricing we have a record of the price that the order was manufactured at.

Q. Now, when you were requested by a competitor for information, did—Strike.

When you were requested for information by a competitor, exactly what information did he seek?

A. The competitor would ask what our past market was, what we had sold boxes for.

Q. When you supplied this information, did you give him your most recent price?

A. Yes.

Q. Was that in all cases accurate information as revealed by your own files?

A. Yes, we always gave accurate information.

Q. Did this at times involve long-distance telephone calls to give out this information?

A. Yes.

[Tr. A-677] Q. And did it, at times, involve your making calls to plants other than the Macon plant to obtain the information?

A. Yes.

Q. Now, Mr. Talbot, was this information given at times in terms of board level as distinguished from end prices?

A. No. In instances that I handled I would usually give the end price.

Q. Do you know whether or not your sales managers at times gave board level as distinguished from end prices?

A. Well, I think we would have to define what we mean by the term board level. We have our manual where we arrived at the end prices, the objective prices. Then in view of competition or conditions in the market that price is discounted. It might be discounted five percent or ten percent or more. So it would be very difficult to give a board level because it would not mean what the end price would be. The price is determined by the competition. Certainly it has been very fierce in this area.

Q. Within your own district would you state that during this period 1955 to or through 1963 this information was normally given in end prices, that is, overall prices?

A. You mean the end price that the box is being sold for?

Q. Yes.

[Tr. A-678] A. Yes, in most instances.

Q. Going back, Mr. Talbot, to the years when the Gaylord manual, the National Container manual and the Old Dominion manual are—were in use in your plants, was this information as to prices on specific jobs given out in terms of board level at that time?

A. No. There is such a variation in our pricing in the area that it would be very difficult to say you were using a board level. You have to give the account in the end price or with the discount off, you don't know what you are going to use.

Q. Would you explain what you mean by the term "discount off"?

A. Well, you take the customers' specifications and you develop your objective price. Then you determine all the

facts available, what the market is, then you might discount that 10 percent or 20 percent or 30 percent from that objective price.

Q. When you were requested for information as to the price you had last quoted or sold to a specific customer by a competitor, exactly what information would you give him?

A. The price that he requested if it was a past transaction.

Q. You would give him an end price or overall price?

A. No, an end price, what we consider charging for the [Tr. A-679] containers.

Q. Now were there ever now any—now was any information ever requested concerning factors which go into the end price?

A. I think in a general discussion where the end price was given that you could conceivably use the factor that was used to make up that end price and then of course after you arrived at the end price and you discounted it, you could give the man how you arrived, what board factor you used.

Q. Would there at times be any information given concerning set up charges or other charges which would go into the end price?

A. Conceivably there could be, depending on the style of box and the set up that is involved. There are several different set ups. By that I mean, determined by the style of the box or the competitive situation in that market. You might use one set up or you might use another set up. Or if you want to leave the set up to cut the price you might do that so there could conceivably be discussions on what set up was used because our set up is pro rated over the order or the number of containers that the customer orders. I would like to add that sometimes our customers request prices on 500, 1,000 or 2,000. So, to arrive at an in between price it would be necessary to know what set up was used.

[Tr. A-680] Q. Now, Mr. Talbot, I would like to refer again to the complaint in this action and go through the list of defendants again and request that you tell me what persons you can recall as having either given to or received from price information on specific customers.

Is that clear?

A. If you are referring to a past market transaction?

Q. I am referring to what you have termed past market and which you also stated was the giving or receiving of the most recent price. Is that right?

[Tr. A-681] A. That is right.

[Tr. A-683] Q. Mr. Talbot, I would like to go through the list of the defendants once again and clarify for you what may have been a misunderstanding. In connection with each defendant as I name them I would like to know those persons to whom you have given price information on specific jobs, on jobs [Tr. A-684] for specific customers or from whom you have received such information. I am not interested in contacts other than within that category. Is that clear?

A. It is clear now.

Q. Container Corporation of America?

A. Mr. Colvin.

Q. Albemarle Paper Manufacturing Company?

A. No contact.

Q. Carolina Container Company?

A. C. T. Ingram.

Q. Continental Can Company?

A. Mr. Groner.

Q. Crown Zellerbach Corporation?

A. Mr. Tarantino.

Q. Dixie Container Corporation?

A. No contact.

Q. Dixie Container Corporation of North Carolina?

A. No contact.

Q. International Paper Company?

A. No contact.

Q. The Mead Corporation?

A. Mr. Shutze.

Q. Miller Container Corporation?

A. No contact.

Q. Owens-Illinois Glass Company?

[Tr. A-685] A. Mr. McRae.

Q. St. Joe Paper Company?

A. Mr. Wayne Ashley.

Q. St. Regis Paper Company?

A. No contact.

Q. Tri-State Container Corporation?

A. Alan McDonald.

Q. Union Bag-Camp Paper Corporation?

A. Mr. Pritchett and Mr. Wulff.

Q. West Virginia Pulp & Paper Company?

A. No contact.

Q. Weyerhaeuser Company?

A. Mr. Elliott.

Q. The Waterbury Corrugated Container Company?

A. No contact.

[Tr. A-686] Q. Now, Mr. Talbot, in your previous testimony, mention was made of the term, "objective price". I wonder if you would tell us what you mean by objective price?

A. Prices were very low at the time our company issued our present manual. We felt that it was necessary to have an objective price and to publish it to the trade and to the world that this is what we would like to sell of our boxes for. We certainly would like to sell all of our boxes for what we published, the \$13 objective. Of course, competition won't permit us to do that, so we have to take what we can get. But that was the objective price and we thought it was time that we state a policy that this is what we will sell our boxes for to anyone.

FOR DEFENDANTS:

Q. What was the situation before that time?

A. Well, there had been other succeeding manuals. I am not too familiar with them because I don't get into day-to-day use of them.

We felt that with the deterioration in prices that as a company we must make our own determination of price and this was the price that we were willing to sell our boxes for. So, we came out with a policy that would enable us to have this objective by this method of pricing.

[Tr. A-687] Q. Was this objective price communicated to your customers?

A. Yes, it was.

Q. How?

A. By delivering the manual and discussing the price situation with our customers.

Q. Was the objective price concept communicated to your competitors?

A. I do not know. That was handled by our general offices and I am sure that if they wanted a copy of our policy or our objective price manual, that they could write and get it from our general offices.

Q. Mr. Talbot, in connection with the issuance of the Inland Manual, what part, if any, did you have in connection with that issuance?

A. I had nothing to do with the mechanics of issuing the manual.

* * * * *

Q. At the time of its issuance, were you given any specific instructions from your headquarters as to how it should be used?

A. We were given the instructions that we would try to obtain this objective level in the pricing of our containers but that it would be necessary to get all of the facts together so that we could make an intelligent price.

[Tr. A-688] Q. Mr. Talbot, earlier in your testimony in response to my question about your use of other manuals, I believe you used the term in response to my direct question as to when you used the other manuals, that it depends on competition. Is that correct? Do you recall that?

A. Yes, I recall that.

Q. I wonder if you would explain that term.

A. If we were quoting an account and our sales manager determined that our competition was a company that had published a manual, of course we would probably quote on the business using their manual.

* * * * *

Q. How did you find out, Mr. Talbot, which manual was being used by a specific competitor?

A. I would assume that the sales managers could get that information fed back to them through the package engi-

neers who would be calling on these particular accounts. We ask our man to get all of the information he can from the buyer, as to who is supplying them, or any other pertinent information that we need to determine what we would quote this account. In many instances, the buyer would say, well, I am buying from XYZ company. And that, of course, if XYZ [Tr. A-689] company had a published manual, we would not hope to get any more than they have published as their objective and if we can determine any other information we might even cut the price.

Q. How would you find out which manual was being used by a company which did not publish its own manual?

A. We just wouldn't have that information.

Q. How would you know which manual to use then?

A. Then we would have to get other information, but no matter how we got this information, we still would have the problem of determining what we are going to quote, whether it came from our competitors or whether we got it from the buyer. And we take these facts to determine what our price will be to that particular account.

So, if we didn't get this information, and we didn't know, or this company we were competing with had no manual, then we would have to get the facts elsewhere.

• • • • •
FOR PLAINTIFF:

Q. Now, this board decimal is listed as a part of the manual, is it not?

A. Yes, that is the objective.

Q. Does that change when the manual is revised?

A. That factor is changed when the raw material market changes,

[Tr. A-690] Q. Does the board decimal include your profit or markup?

A. I can't give you that breakdown entirely, but it includes some overhead and profit.

Q. Does it include your delivery cost, either freight or trucking delivery?

A. Different companies handle that differently. We include it in our factor.

• • • • •

Q. If you went to your file on a particular customer, you could tell quite easily exactly the current price that you had quoted in your last transaction with them, is that true?

A. That would in the quotation file which would be separate from our actual estimate file. There are two files. One is where we make mathematical computations. The other is a typed quotation that goes to the customer.

Q. I would like you to tell us which you used when you were requested or when you received a request for information concerning a specific customer?

A. Obviously I would take the mathematical computation file, because on that is recorded the date the order is received and the price. So that would be what I would refer to. It would be a past market transaction.

Q. That would give you your most recent price?

[Tr. A-691] A. That is correct, that the box had been sold to the customer for.

Q. In connection with occasions where you received a request from a competitor for price information on a specific job, would you furnish this information if you had quoted on the business but may not have gotten the order for some reason or other?

A. I don't think I personally would be faced with that situation. After reviewing the file, if we had not sold the boxes—in other words, I feel that a past transaction is when we have the order, either written or verbal in a responsible person's hand in our organization, that that is a transaction.

Q. What I was asking, if you had made a quote, not just quoted it for your own purposes, but actually made a quote, would you give that information?

A. There would probably be some instances where we were sharing an account with four or five other people, and if the buyer had indicated that we on our quotation would be given our part of the business which, say, we have enjoyed with six other people, and it was lower than we had quoted last time, and a competitor called me, and he was a normal supplier of this account, I might give him that information because he would be, of course, checking to see what the market was.

[Tr. A-692] But that would be a very rare instance, and only where we were a contract account or an account where

there are four others who share the same position, of which you have many like that.

Q. Realizing that possibly you, yourself, would get few of those, what were your instructions to your sales managers in reference to giving information on specific jobs where you had quoted but had not made a sale?

A. I don't believe we have any set rule. It would have to be discussed, and a determination made what information was requested, to be sure that we were not giving a price that was not a fact and that we had been told that maybe the order had not been placed, but if we would maintain this price we would get our share of the business. There is no commitment there.

* * * * *

[Tr. A-693] Q. Mr. Talbot, in connection with the giving of price information on specific jobs to representatives of your competitors, could you tell us, please, in what way, if any, such giving of information benefited your company?

A. The specific duties of our sales managers, of course, are to sell our products at the highest prices they can obtain to make a profit. They need information to make an intelligent decision on price.

I would say whether we got the information from our competitors or the buyer or any other source, it would still be used in the same way to determine the price that we would quote for our boxes. I would say it would be only the help in getting the information faster than we could seek it out by making repetitive calls on the buyer or through other channels.

Q. What other channels would be available to you or were available to you?

A. I used that word very broadly. It probably would be none other than the buyer or relating a market to another market within an industry. I think I used the word too broadly.

[Tr. A-573]

Tuesday, March 10, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Inland Container Corporation: Louis A. Highmark, McNeill Smith.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF BARNELL E. ROBERTS

(PX-29)

[Tr. A-574] Q. Mr. Roberts, would you state, please, your full name, residence address, and business address?

A. B. E. Roberts, 1236 South Jackson Spring Road, Macon, Georgia, and the Inland Container Corporation in Macon, Georgia.

Q. Sir, what is your position with the Inland Container Corporation?

A. Plant Sales Manager.

Q. Would you trace for us the history of your employment with Inland, positions and dates, please?

A. I have been employed by Inland Container for thirty-two years, tracing from present time backwards, I became Plant Sales Manager in Macon in 1955.

[Tr. A-579] Q. Sir, at the time of these, either before or after a Fibre Box Association meeting, have you talked with a representative of a competitor about the corrugated container industry in the Southeastern United States with reference to anything other than what you have referred to as past market information on a specific customer?

A. Yes, as a sales manager, plant sales manager, I would have to keep myself abreast with what is going on in [Tr. A-580] the industry, both from the statistics which are put out by the Fibre Box Association, at the same time ask questions as to any new plants coming into the area, new equipment, and so forth. General information to try to keep

myself abreast with what is going on in the industry, as a whole.

Q. Have you been asked for information with respect to a specific customer on these occasions?

Mr. Highmark: What kind of information?

The Witness: Will you re-state it, please?

By Mr. Sliney:

Q. Have you been asked for information with respect to a specific customer on these occasions?

A. Yes. They would ask me about the general information. If this particular account was buying—again I am thinking now of our customer—if he was buying out another operation, whether they were going to shut that particular mill down, and so forth.

Q. Have you been asked questions with regard to price of a specific customer?

A. Yes, in the same manner that I request it from a competitor.

Q. Sir, you have referred to this as being the same sort of information that you would request on the telephone. Would you describe for us the type of information that you have in mind?

[Tr. A-581] A. Generally speaking, the information that we need to sell an account comes from the buyer. The package engineer reports the market condition in a particular account. If we can't secure it from that source, and I have to have the information in order to make an intelligent decision as to what I am going to do price-wise, I have to have this type of market information.

So, subsequently if we can't get it from the buyer or, as I say, from any other source—on the other hand, we have a source when we try to think of an overall market condition so far as the market price which the Fibre Box index might represent, I would then call a competitor and ask him what is his past market.

Q. Sir, when you say market conditions, what do you mean?

A. Market conditions, you put that in the same category

as an overall index or an average of what the business in any given area is going for?

Q. I am asking you, sir, to define your use of the term.

A. Yes. For example, if you take all the accounts and throw them into a hat and total up the dollars and footage in it, you have an "X" per M square feet figure.

If you wish, you can use that, well, we might in some instances use that as a market to quote, without seeking out [Tr. A-582] information.

Q. Is this the type of information that you ask a competitor for or which he asks you for?

A. This is the type of information which is readily available from the Fibre Box statistics which we receive at our regular Fibre Box meetings.

Q. My previous question, sir, had reference to the information which you requested or which was requested of you by a competitor or with reference to a competitor and with reference to a specific account.

A. Well, the type of information that we would request would be no different than the type of information that we would receive from the buyer and would have no direct bearing on what we would quote.

Q. Sir, can you describe this type of information? Can you tell me what this type of information is?

A. I would ask a competitor, perhaps he would ask me, as to what our past market is on a certain specification, or for a certain customer.

Q. When you say past market, will you define that for me, please?

A. Past market is where a previous sale had been made.

Q. To a specific customer?

A. That is right.

Q. By the competitor from whom you requested this [Tr. A-583] information?

A. That is right.

Q. Was this the most recent past sale to which you had reference?

A. It would be the most recent past sale, yes.

Q. Was it a sale in all instances, to your knowledge?

A. The information I requested has always been on a past transaction basis.

Q. Did you define the term "past market" for the person of whom you were requesting information?

A. I would ask him to give me the past market or latest transaction he had for that particular account. The reason I was asking that is because I knew he was selling that particular account. That was the purpose of my calling, because I knew through my packaging engineer that he was selling the account.

[Tr. A-584] Q. Sir, did you mean to say "or"? "Past market or latest transaction"?

A. I was probably using the term loosely. When I say "past market", I am thinking of the latest transaction or the latest sale.

Q. Did you define your use of the term in that way to a competitor when you called him?

A. No, I think in some instances—this again depends on the terminology—I would say past market, and past market, as far as I am concerned, is the latest sale, the price of the last sale the competitor made.

Q. Do you have any knowledge of what the term meant to the person you were calling?

A. Since he was seeking out the same information from me on other occasions, other items, other customers, I am assuming he had the same interpretation, because that is the type information I was giving him.

Q. Sir, with reference to requesting or giving this price information on the telephone, under what circumstances would you request this information?

A. Well, again, it is the same type of information that [Tr. A-585] we normally receive from the buyer and if we were unable to secure the information from the buyer through the packaging engineer and needed the information to make an intelligent price decision, knowing that the buyer is not going to pay me any more than competition, and I certainly would be a poor sales manager if I could not get at least as much, I would in turn seek out the information or make my own independent price.

Q. Would it be on occasions when you were unable to obtain a figure from the buyer?

A. Yes.

Q. Has it taken place on occasions when you have been able to obtain a figure from the buyer?

A. There would really be no need for me to request information if I had received it from the buyer. Again stating that in many instances our package engineers are allowed to negotiate across the desk with the buyer. Once they receive price information, they can negotiate their own price, and they will tell me what they have done.

Q. Sir, have you ever during this period to which we have reference, attempted to verify the price which a customer had supplied to you or to one of your package engineers?

A. I would say in some cases, yes, where a buyer has indicated that the price has been reduced by another supplier [Tr. A-586] and we have possibly a contract with the customer and the prices being as low as they have been in this market for years, we certainly don't want to reduce our market any lower than what it has already been reduced to. We would call and verify with the competitor that there had been some reduction in the market, assuming that he had already received business at this lower reduced price.

Q. You would make that assumption at the time you made the call?

A. Yes, because, again, we are seeking out information that I would have to have in order to make this decision. A lot of times the buyer, certainly I don't believe you can take the word of all buyers.

Q. Did you have any knowledge on these occasions whether or not your competitor had received an order?

A. Definitely whether they had received an order or not but there was indication from the buyer he intended to give me business if we would make the adjustment.

Q. Sir, did this happen only on occasions when you had a contract with the customer?

A. There might be other instances, yes.

Q. What other instances, sir?

A. I would say a particular type of account where there would be five or six suppliers. If they decided they wanted to get more volume they might reduce their price.

[Tr. A-587] Q. On these occasions you would learn from the buyer?

A. We would learn from the buyer, yes, that there was some price agitation going on, that the market had been reduced, and he was more or less obligated to give the other fellow some business because he had reduced his price.

Q. Have you ever learned from a competitor, without requesting information, that he had reduced the price?

A. No, sir.

Q. Have you ever learned from a competitor without requesting the information that he had increased a price in a specific account?

A. Yes. Again we would seek out this information. One certainly did as much as we could for our product and we would seek out the same type of information on that side as on the other side.

Q. Not having sought the information, sir, has a competitor called you or stopped you at a meeting at the time, on any occasion when you might meet him personally, to tell you that he had increased the price to a specific account?

A. Not to my recollection, no.

Q. Have you ever done this, sir?

A. No, sir.

Q. Sir, on the occasions when the buyer informed you that his price had been reduced have you ever asked a competitor whether or not he had reduced the price?

[Tr. A-588] A. Again, I would seek out the information on a past transaction. Again, I say that in many instances we automatically through the package engineer—cause the customer to negotiate the price then and there. In other cases we would seek out and verify the information from the competitor.

Q. In some instances the package engineer would negotiate a price where there had been a reduction in the price to that account?

A. That is right. It depends entirely—I would say not entirely but in many instances on the type buyer and the type of reliability of information given by the buyer.

Q. The package engineer would make the judgment as to whether the information was reliable?

A. That is right.

Q. Sir, on the occasions when a competitor has requested information from you regarding your most recent price to a specific customer, where would you obtain the information to answer the request?

A. I would go, either myself personally or have someone from the office go to pick up the files, what the latest transaction indicates.

Q. Would you describe the order file for me, sir?

A. The order file has in it the customer's order or confirmation of the order sent in by the customer. It would [Tr. A-589] have our Inland cost sheet attached and also the computations on the manual with the latest transaction so indicated and other transactions prior to that so indicated.

Q. Is each of these items which you mentioned a separate piece of paper?

A. The order, itself, would be, yes. The Inland cost sheet would be separate and the Inland manual sheet computations would be a separate piece of paper.

Q. Is that for each order received from that customer?

A. That is right.

Q. Does this file contain several pieces of paper with reference to previous orders?

A. On any given specification, we would have only one card and on that card would be listed the transaction from the latest up to maybe several years on the one card index.

Q. Is this card contained in this file?

A. Yes, it is attached right there with it—in our active file.

Q. To which do you refer, sir, in attempting to ascertain the information necessary to answer your competitor's request?

A. We look at the Inland cost sheet where we make our entry with the assigned plant order number, the date received, and the price, sir.

Q. Is this Inland cost sheet only prepared with [Tr. A-590] reference to actual orders or is it also prepared with reference to quotations?

A. It is done both ways.

If an order gets extremely low we like to know exactly

what our costs are, so we are going to cost sheet even though we get no actual business on it.

Q. When you refer to this cost sheet, sir, have you any way of knowing whether a sale has been completed with reference to that particular sheet?

A. Yes. The entry is made. We make no entry on the Inland sheet until such time as a sale has been made when we assign a customer plant order to that particular transaction.

Q. No entry is made on this cost sheet at the time a quote is prepared?

A. We have a quotation ~~we~~ where we send out quotations to the customer. That is kept in a separate file. That is on a regular quotation form listing the customers specification and so forth.

Q. And you do not have reference to that file at the time you attempt to answer a competitor's request?

A. No. If he is asking for past market we pull out the active file where we have sold an account.

Q. Have you ever been asked during this period, sir, by a competitor for a quotation or what you had quoted?

[Tr. A-591] A. No—my knowledge of what we had quoted, no.

Q. Sir, having received a request of this type and having obtained the information from your files, do you make any notation on your files?

A. How do you mean, notation?

A. Do you in any way, change the files after you have received a request from a competitor?

A. I might make a notation indicating that he had called to keep abreast of who is active in the account and who was after some of my business.

Q. Where would this notation be made, sir?

A. It would be made right on the estimate, itself, the cost sheet.

Q. Is this your general practice, sir?

A. No, it is not general. I say in some instances, we might do that.

Q. In what instances would you do that, sir?

A. Well, I would say where there might be some unusual agitation in a certain account, pricewise, where the price is continually deteriorating.

Q. Sir, to whom is the information in this order file available? To whom within your organization?

A. It is available to anyone in the sales office. They have to use the information every day in their re-orders. We receive many orders where there is no particular pricing [Tr. A-592] problem. The order comes in and we put the same price as last on it. So, there is really no problem. They still have to have the files to go ahead and enter the order and put on the Inland base on our order form.

Q. Does this order file have any other use to the sales department?

A. I don't know how you mean, any other use. We use the files—could you clarify the question?

Q. Yes. You have stated that it is used to answer a competitor's request for information.

A. Yes.

Q. And it is used to price an order which would be received and on which you had used the same price as you had been using previously; is that correct?

A. Yes.

Q. Other than these two uses, is there any other use to which you personally put the file?

A. Yes. If we are anticipating a contract with the customer, we might pull out the file to see which items we have sold to order our special materials or regular materials or even special materials. When you get into your off-whites and special types and so forth, you have to refer to your file to make a projection.

Q. Is this information in your file made available to anyone other than yourself, sales people and your competitors? [Tr. A-593] A. You say, made available. My files are not made available to the competition.

Q. Do you give information contained in this file to anyone other than yourself, your salesmen, or your competitors?

A. Yes, on occasion, I have to discuss a certain selling price with our production people.

Q. Is there anyone else, sir?

A. My superiors, yes.

Q. Is there anyone else?

A. Not that I can think of.

Q. On the occasions when a competitor requests informa-

tion of you, what purpose do you have in supplying him with this information?

A. Well, it is the same type of information I have to have in order to make an intelligent decision. I am assuming he has to have the same type of information to make his decision. I feel unless I give him the information that I certainly won't be able to request it from him.

Q. Is your giving this information, then, of any benefit to you?

A. The benefit as such makes no difference whether you get it from the competitor or whether you get it from the buyer. You use it in the same manner.

Q. Is it of any benefit to you to give this information [Tr. A-594] to your competitor?

Mr. Smith: I object. That is the same question.

Mr. Sliney: I don't believe he has answered my question.

The Witness: I don't know of what benefit it is to the buyer—to the competitor, but if he requests information and I give it to him, I, again, assume he has to have it the same as I do in order to make an intelligent decision.

By Mr. Sliney:

Q. I am not making myself clear and I think that is the reason for the misunderstanding. On the occasions when a competitor requests this information and you give it to him, what benefit do you derive from having given him this information?

A. I, in turn, can ask him for past market information at a later date, possibly, on some particular account that I might need information on.

Q. Sir on the occasions when you have need for this information and where you have called a competitor, have you always obtained this information from a competitor? Again, I have reference to the period from January 1, 1955 to October 14, 1963, as I have had throughout this examination.

A. I would say in some instances in calling a competitor that I would get no response because they had not [Tr. A-595] sold the account and they had no particular past transaction.

Q. In the event he had sold the account, sir, have you always obtained the information?

A. I would say in most instances.

Q. Are you able to use this information, sir, in computing the price of a corrugated container?

A. Yes. In some instances the information that I request, I might request an end price on which I will make a decision after reviewing all the pertinent information, as to product mix and how the plant is operating, and overtime and so forth, as to exactly what I will do with the price.

Q. Sir, how do you ask for an end price?

A. I will ask him what his past market is and ask him exactly what he has been selling the account for. In some cases he might say a level and again he might say an end price. But if I am looking for an end price on the basis that there are only several sizes involved, it saves my office estimator valuable time, there are only several sizes I can ask for an end price. But if it is a complicated specification, generally it is received in the form of a level.

Q. If there are complicated specifications?

A. Complicated and page after page of it, you certainly are not going to stay on the phone and find out what the end prices are on four or five separate pages of specifications.

Q. Having received the level, sir, are you able to [Tr. A-596] use this information in computing the price of a corrugated container which you wish to compute for a customer, for that specific customer?

A. Yes. Once I receive a level, I can compute it on our manual and determine what price will be developed off the manual and then make the decision as to whether or not we should endeavor to secure the business, knowing that many times the sales manager wants to get the best price he possibly can and in the majority of cases we will quote the same price given us, hoping that we can sell at that particular level.

Again, if you want to cut a price, you want to cut it and at the same time be able to get the business after you cut it, because just because you cut a price does not mean you are going to get it.

Q. Would you elaborate on that, sir?

A. Yes, to the extent that we have quite a few accounts,

again, I mentioned previously that our package engineers negotiate across the desk with the buyer, and we do have customers that will give us information the competition has put in a lower price, or what they have put in, and we can negotiate right then and there and feel that the competition has the same type of account.

Again I say, even though I would cut the account does not necessarily mean I would get the business, because I feel [Tr. A-597] the buyer would give that same type of information to the competitor.

Q. Sir, will you explain what you mean when you say end price?

A. The end price is what an item or specification brought at the last sale, the last transaction.

Q. Does it have reference to a specific type of box?

A. That depends on the specification that I was seeking out information on.

Q. When you say end price, sir, you are talking about the price for one particular box of certain specification?

A. That is right.

Q. Having obtained an end price, have you ever, during [Tr. A-598] this period to which we have reference, computed a price of another box of different specification for this same customer?

A. Yes, I would attempt to determine what other specifications should be off that one or two or three other end prices I might receive from a competitor.

Q. How would that be done, sir?

A. It would be done, as a rule on an overall basis, determine the footage in the item and divided into the price per thousand then arriving at so much per thousand square feet for the item, and then figure the other specification, how much footage was in that particular item and use that same overall figure.

Q. Would this require the use of a manual, sir?

A. No.

Q. It could be done without a manual?

A. Yes.

Q. Mr. Roberts, with reference to the Container Corporation of America with what persons, with what representatives of the Container Corporation or from what persons representing the Container Corporation have you requested information regarding the most recent price of a specific competitor?

A. It would be Bill Colvin, J. D. Evans, and Dolph Clay, Norman Alday. That is all I can think of.

[Tr. A-599] Q. Have you also received requests for this information from each of these persons?

A. Yes.

Q. Is there anyone else from whom you have received information?

A. No one else.

Q. Sir, with reference to the Albemarle Paper Manufacturing Company, the same question?

A. With Tony Bagley on a limited basis because of the fact we don't get up into that area too much.

Q. And you have received information from him?

A. Yes.

Q. He has requested information from you?

A. I have requested and he has requested information.

Q. Is there anyone else with Albemarle?

A. Not to my recollection, no.

Q. And the Carolina Container Company?

A. C. T. Ingram, Jr., and Carter Holbrook.

Q. Both ways, you have requested and they have requested?

A. Yes.

Q. Continental Can Company, Inc.?

A. Roy Taylor, Bob Groner, and previously Bill Beams before he became associated with this new plant in Martinsville.

[Tr. A-600] Q. Southeast?

A. Yes, I think he has changed jobs from Continental.

Q. At the time he was with Continental?

A. Yes.

Q. And again with Mr. Taylor, Mr. Groner, and Mr. Beams you have both requested information of them and they have requested information of you?

A. Yes.

Q. Was there anyone else of Continental Can?

A. Not to my recollection, no.

Q. Crown Zellerbach?

A. Lee Ross, George King, Gordon Clark.

Q. You both requested information and gave them?

A. And gave information. Yes.

Q. With each of these people?

A. Yes.

Q. Dixie Container Corporation?

A. Herb Mitchell, again on a limited basis of not getting up too much into the State of Virginia.

Q. Where are they located, in Richmond?

A. In Richmond, yes.

Q. Is there anyone else with that company, sir?

A. No one else I can recall.

Q. And again both ways?

A. Yes, sir.

[Tr. A-601] Q. With reference to the rest of these people as we go through the list, is there any from whom you have only requested or who have only requested information from you, would you point them out?

A. Yes.

Q. Do you know Dixie Container Corporation of North Carolina?

A. I know they exist, yes. We don't again, run into their particular operations because we don't get over into that part of North Carolina too much.

Q. Do you know Mr. Schwind?

A. I have heard of him. I might have met him in the past but I don't recall the occasion.

Q. You wouldn't include him in this list?

A. No.

Q. International Paper Company?

A. Hugh Reid and Spike Ennis. Those are all.

Q. The Mead Corporation?

A. Dave Bloom, Virgil Shutze, and Bobby Wainscott.

Q. Miller Container Corporation?

A. Harold Kyle.

Again that would be on a limited basis because here they are in Virginia which we don't get into much.

Q. Do you know Bill Noftsinger?

A. I have met him, yes.

[Tr. A-602] Q. Would you include him on this list?

A. No.

Q. Owens-Illinois Glass Company?

A. Tom Cox, Hays McRae, Ken Rosenbaum. And Britain. Harold Franks.

Q. Is there anyone else?

A. Those are all I can think of.

Q. St. Joe Paper Company?

A. Jake Belin, Wayne Ashley. That is all I can think of.

Q. With reference to St. Joe these like the others have been both ways?

A. Yes.

Q. St. Regis Paper Company?

A. Bill Diggs, Petrie, and Sid Marks.

Q. Do you know Mr. Duffy or Mr. Robinson?

A. I have met them but I never corresponded with them at all.

Q. Where is Mr. Marks located?

A. In Atlanta.

Q. Tri-State Container Corporation?

A. Alan McDonald.

Q. Union Bag-Camp Paper?

A. John Pritchett, Frank Grimes, and Ed Faulkner.

Q. West Virginia Pulp and Paper Company?

[Tr. A-603] A. Alan Holt. That is all.

Q. Weyerhaeuser Company?

A. George Elliott, Ed Grain and—

Q. Do you know Ivan Wood, sir?

A. Yes.

Q. Would he be added to this list?

A. I don't recall—I have talked to him but I don't know whether it was when he was with Weyerhaeuser or whether it was when he was with Old Dominion.

Q. The Waterbury Corrugated Container Company?

A. Very limited, Joe Reynolds, again because he is over in that particular area that we don't get into too much.

Q. Sir, with the exception of Weyerhaeuser whom you just mentioned, has the exchange been continuous throughout this period, from January 1, 1955 to October 14, 1963 with reference to the rest of these?

A. Yes, on a limited basis.

Q. Have you found you have been unable to obtain information from some of these people at any time during this period?

A. Yes. I think certain companies are not on the phone

at the present time and subsequently, you don't get information from them.

Q. Which companies are those?

A. Container Corporation, Mead and International Paper.

[Tr. A-604] Q. During this period that you have been sales manager, from the fall of 1955 to October 14, 1963, have there been any new box plants that have entered the area in which you solicited business?

A. From 1955?

Q. Yes.

A. Yes, there have been several. We have the Blue Ridge, Waterbury as you call it, and the International Paper at Statesville, I think it is, and the Southeast in Martinsville, Union Bag in Atlanta, Union Bag in Spartanburg. I believe they came in after 1955.

Q. All of these have come in after 1955?

A. Yes.

Q. When one of these new plants comes into the market, does it have any effect on what you have described as general market conditions?

A. Yes, I think they have a detrimental effect to the point that prices to a certain extent have a tendency to deteriorate. They certainly are going to operate their plant and it seems like other times we don't know how they get business but they operate.

Q. This deterioration that takes place, is it a temporary thing or is it permanent?

A. When you say temporary, I think it is an ever-
[Tr. A-605] continuing thing. When you have another plant coming in on top of the other plants, it is a never-ending thing so far as price competition.

Q. About the time that the effect of one new plant has worn off another new plant opens up?

A. That is the way it has been, yes.

Q. Is there any one of these that has caused particular trouble to your operation?

A. I don't think you could say any one. I think they all have a deteriorating type factor on the market.

Q. Do you recall the period when the Union Bag plant opened up in Spartanburg?

A. You mean do I recall the year?

Q. Approximately. Well, do you recall the occasion, the time, do you recall anything about that plant opening up?

A. I just remember when they came into operation, yes. Again, I say I think it is after 1955.

Q. Do you know the individual who was in charge of sales in Spartanburg?

A. Yes, Frank Grimes.

Q. At the time that that plant went into operation in Spartanburg, did Mr. Grimes seek information from you with regard to your most recent past price to a specific customer?

A. Yes.

Q. Did you give him this information?

[Tr. A-606] A. Yes.

Q. What was your experience after giving him this information?

A. I don't know as far as the experience is concerned, other than any other type of experience, giving him the information he requested.

Q. Did he request this information from you on more than one occasion?

A. Yes.

Q. Did you find that he was cutting your prices after you gave him this information?

A. I don't think any more than anybody else because we are in a competitive market and I don't think we would notice it in particular because, again, the territory we operate in is rather large so that I would not be able to associate him more so than any other particular plant.

Q. When you say, not any more than any other, sir, do you mean that he cut your prices all the time and so did everybody else, he did not stand out?

A. I would say he did, on occasion, cut my prices, as you put it, yes. So did other competitors.

Q. When you say, "on occasion," did you find that he usually cut your price?

A. That is going back so far that it would be rather difficult for me to determine any particular instance at all.

[Tr. A-607] Q. Do you recall that you bore any animosity, that you didn't like Mr. Grimes at this time?

A. No, I would say that is the box business for you. If you are going to be in the business, you have to expect it.

Q. After he cut your prices on these occasions, did you

continue to give him information if he requested it from you?

A. Yes, because I would expect to, perhaps, call him and expect the information. So, I know I could not very well expect to receive past market information unless I would so give him information.

Q. Sir, on these occasions, did you take into consideration the fact that he had cut your price previously?

A. Not particularly, sir, no.

Q. When any new plant or any of these opened up in your area, did you give any consideration to the fact that a new plant had opened up in giving information to persons who requested it?

A. No, I don't think so.

Q. You did not change your practice one way or the other?

A. We would not change our policy at all.

Q. Did you find it to your benefit to give the most recent price you had charged a customer to a competitor who [Tr. A-608] was just opening a new plant?

A. Well, this is, again, the same type of information that we normally would get, ourselves, from a buyer through the package engineers. I wouldn't see where there was any particular benefit to be gained by it.

Q. To be gained by what?

A. By getting information from me I assume he is going to be making an independent price determination the same as I would make when I would call him.

Q. What I meant to ask was, what benefit or did you see any particular benefit to be gained by you in giving this information?

A. Yes, because, again, I would have to be calling him at some later date, possibly, for price information and I felt unless I gave him information I could not very well expect to receive it, myself.

[Tr. A-616]

Wednesday, March 11, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Owens-Illinois Glass Company: Welch O. Jordan.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeil Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; Carolina Container Company; and Waterbury Corrugated Container Company.

DEPOSITION OF KENNETH E. ROSENBAUM

(PX-30)

[Tr. A-617] Q. Mr. Rosenbaum, state your full name and residence?

A. Kenneth E. Rosenbaum, 7 Dogwood Road, Salisbury, North Carolina.

Q. And your business address and employer?

A. Owens-Illinois Glass Company, Forest Products Division, Salisbury, North Carolina.

Q. Mr. Rosenbaum, would you give us the history of your employment with Owens-Illinois Glass Company, please, the dates and positions held?

A. Mr. Sliney, I started with the company before it was owned or controlled by Owens-Illinois.

Q. Will you tell us about that?

A. Yes, sir.

I started with National Container in January 1953 as a salesman. National Container was taken over by Owens-Illinois Glass Company in October 1956, and I continued on as a salesman until the spring of 1958. In the spring of 1958 I was made sales manager of the Salisbury Plant. I continued as sales manager until the spring or the summer, I should say, of 1959.

I was made acting general manager and sales manager, and I continued in that capacity until in the fall of 1960 I was made general manager.

[Tr. A-618] Q. I would like to go immediately to a meeting that was held in Salisbury about which several people have testified here that they attended and ask you if you have any recollection of attending a meeting at DiMizio's Restaurant in Salisbury with your competitors?

A. Yes, sir, I do.

Q. Tell us, please, what you recollect about that meeting, sir?

A. Mr. Sliney, the meeting that I recall was held at DiMizio's Restaurant in a private dining room, and the subject was the matter of how the acceptance of an increase in set-up charges had been accepted by the trade.

Q. Sir, when you say had been accepted by the trade, to whom do you refer?

[Tr. A-619] A. By the customers that we were selling.

Q. Do you recall, Mr. Rosenbaum, that there was an increase in set-up charges during the summer of 1959?

A. I cannot tell you it was in 1959 because I do not know, Mr. Sliney.

Q. Mr. Rosenbaum, I show you Document Number "OWE 370" which has previously been used here. It purports to be an Inland Container Corporation estimating and pricing manual. It bears the date of June 15, 1959, and is date-stamped "Received June 19, 1959, Owens-Illinois", "To holders of Inland estimating and pricing manual." It defines the territory which is included in the territory which we have reference to here. It says, "Effective July 1, 1959, Issued June 15, 1959."

There is some additional writing, and then it says: "(B) Page 6, Set-up Charges have been changed."

I would ask you to look at page 6 of that document, Mr. Rosenbaum.

[Tr. A-620] Sir, with reference to the increase in set-up charges which you recall, do you recall the amount of the set-up charge prior to the change and the amount of the change?

A. Yes, sir, I do. The set-up charge prior to the increase I said we were discussing at DiMizio's was \$15 on the regular slotted box. The set-up charge varied depending on the item.

Q. What was the charge on a regular slotted box after the change?

A. \$25.

Q. Sir, with reference to page six of that document have you looked at the price which appears beside a regular slotted carton?

A. Yes, sir.

Q. Does that appear to be the price which you recall as being the set-up charge after the change?

A. Yes, sir.

[Tr. A-622] Q. Prior to the meeting in Salisbury, had you attended another meeting where the subject of increased set-up charges was discussed?

A. Yes, sir, I had.

Q. Where did that meeting take place, sir?

A. In Raleigh, North Carolina.

Q. Do you recall whether it took place in a hotel?

A. Yes, sir, it did.

Q. What hotel was that?

A. Sir Walter Raleigh.

Q. What else do you recall about the meeting?

A. Well, I recall—again I will name one person—I recall Gordon Clark attended the meeting because I took my wife over with me and we were down having breakfast in the morning and Gordon Clark stopped by the table and talked to my wife. So I do remember that.

Q. Do you recall anything else about that occasion?

A. I recall that Mr. Pritchett and Mr. Faulkner came into the meeting and one, which one I don't recall, announced that they were increasing set-up charges from \$15 to \$25. I do recall that, sir.

Q. Were there any comments made after this announcement and while Mr. Pritchett and Faulkner were present?

[Tr. A-623] A. No, sir, not that I know of.

Q. Do you recall any comments or discussion after they left?

A. No, sir, I do not.

Q. Do you recall, sir, how long the meeting lasted?

A. It was a very short meeting, I recall that.

Q. Thirty minutes?

A. I would say 20 or 30 minutes, something in that area, yes, sir.

Q. After this meeting, sir, did the company which Mr. Pritchett and Mr. Faulkner represented, increase their set-up charges?

A. Mr. Sliney, the report we had from customers and salesmen was that they did increase set-up charges.

Q. Did other of your competitors in the area at or about that time increase their set-up charges?

A. I would say shortly after that and following that [Tr. A-624] they did, yes, sir.

Q. Did your company increase its set-up charges?

A. We did, probably four to six weeks after that.

Q. Sir, was the Raleigh meeting prior to the Salisbury meeting?

A. Yes, sir.

Q. About how long a period of time was there between the Raleigh and Salisbury meetings?

A. Between four and eight weeks, in that area.

Q. Sir, were the persons present at the Salisbury meeting all representatives of competitors of yours?

A. Yes, sir.

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Q. Do you recall the occasion when the Old Dominion Manual was first published?

A. No, sir, I do not. I was probably a salesman at the time.

Q. Do you recall seeing Old Dominion Manuals?

A. Mr. Sliney, I don't think I have ever seen an Old Dominion Manual.

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[Tr. A-625] Q. Other than during that portion or during that Fibre Box Association meeting have you been in the presence of your competitors when the subject of prices of corrugated containers in the Southeastern United States was mentioned?

A. Yes, sir.

Q. What do you recall about those occasions, sir?

A. Mr. Sliney, I remember one meeting in Charlotte when the prices for an account were discussed.

Q. What do you recall about that occasion?

A. The account involved was Spring Cotton Mills and Mr. Roberts announced that they were increasing their prices [Tr. A-626] to Spring Cotton Mills.

Q. Do you remember the occasion on which this took place?

A. As I recall there it followed a Fibre Box Association meeting—it was in the afternoon.

Q. Do you recall how many persons were present?

A. I would say somewhere between five and eight.

Q. Were they all representatives of competitors of yours?

A. Yes, sir.

Q. Do you recall where this took place?

A. Yes, sir, in the Barringer Hotel.

Q. Where in the hotel?

A. In a bedroom.

Q. Whose room was it, sir?

A. I do not know.

Q. How did you come to be there, sir?

A. Again someone must have asked me to attend the meeting. I must have accepted.

Q. Was it your impression, sir, that you had been asked to come there to hear this announcement?

A. Yes, sir.

Q. Do you recall, sir, approximately when this took place?

A. Well, can I give you a range again?

[Tr. A-627] Q. Please, to the best of your recollection.

A. I would say between three and five years ago.

Q. This would be between 1959 and 1961?

A. Yes, sir.

Q. Was there any comment regarding this announcement?

A. No, sir, not that I know of.

Q. Did Mr. Roberts say anything further than that he was going to raise prices?

A. No, sir.

Q. Were the persons present suppliers of the Spring Cotton Mills account?

A. Mr. Sliney, I do not know if they were or not. We were not.

Q. And you have no knowledge regarding the others?

A. No, sir.

Q. Would it be of any value to you to know that Mr. Roberts was raising prices to the Springs Cotton Mills?

A. Mr. Sliney, any market information I can get on any account I like to have, it is valuable.

Q. Sir, during the period from January 1, 1955 to October 14, 1963, have you on any occasion called a competitor of yours to ask for the price that he was then charging a specific customer?

[Tr. A-628] A. Yes, sir.

Q. Did you do this prior to the time in the spring of 1958 when you became sales manager at Salisbury?

A. Did I do that prior to the time I became sales manager?

Q. Yes, sir.

A. No, sir.

Q. So that these requests for information are restricted to the period from the spring of 1958 to October 14, 1963?

A. Yes, sir.

Q. Have these requests continued on up to the present?

A. Yes, sir.

Q. Have you received requests from your competitors for this information during this period?

A. Yes, sir.

Q. Sir, I hand you a copy of the complaint in this action. The first page at least has not been marked and I will have reference only to the first page. I would like to ask you regarding each of these companies the names of the individuals from whom you have requested and received this information?

A. Yes, sir.

Q. Container Corporation of America?

A. Mr. Evans, Mr. Clay and Mr. Colvin.

[Tr. A-629] Q. Sir, again I would ask you to restrict your

answers to the period prior to October 14, 1963. Would that change your answer?

A. No, sir.

Q. Have they also requested this information of you?

A. Yes, sir.

Q. The Albemarle Paper Manufacturing Company?

A. Is Albemarle Paper Manufacturing, Richmond Container?

Q. It was at one time. The Richmond Container Plant is now a part of the Albemarle Paper Manufacturing Company.

A. Yes, sir, Mr. Dozier.

Q. Is there anyone else?

A. No, sir.

Q. Has he also requested information of you?

A. Yes, sir.

Q. The Carolina Container Company?

A. Yes, sir.

Mr. Ingram, Holbrook and Webster.

Q. And they have requested the same information from you?

A. Yes, sir.

Q. Continental Can Company?

A. Mr. Johnson, Mr. Taylor, and Mr. Beams.

Q. And they have requested information from you?

A. Yes, sir.

[Tr. A-630] Q. The Crown Zellerbach Corporation?

A. Yes, sir, Gordon Clark. That is the only one.

Q. And he has requested information from you?

A. Yes, sir.

Q. The Dixie Container Corporation?

A. Yes, sir. Mr. Mitchell, Mrs. Gatewood, Mr. Lett and Mr. Schwind.

Q. Has each of those four persons requested information from you?

A. Yes, sir.

Q. The Dixie Container Corporation of North Carolina?

A. Well, I included that in my answer about Dixie.

Q. The Inland Container Corporation?

A. Yes, sir. Mr. Roberts and Mr. Hogan.

Q. Each of those persons has requested information from you?

A. Yes, sir.

Q. The International Paper Company?

A. Yes, sir, Mr. Reid, Mr. Ennis.

Q. Mr. Reid and Mr. Ennis have also asked you for the same information?

A. Yes, sir.

Q. The Mead Corporation?

A. Yes, sir.

Q. The persons?

[Tr. A-631] A. Mr. Bloom, Mr. Wainscott, Mr. Pridgen.

Q. And you have given information to these gentlemen?

A. Yes.

Q. Miller Container Corporation?

A. Yes, sir. Mr. Kyle, Mr. Noftsinger.

Q. You have also given them information?

A. Yes, sir.

Q. St. Joe Paper Company?

A. No, sir.

Q. St. Regis Paper Company?

A. Yes, sir. Mr. Diggs, Mr. Petrie.

Q. And you have given information to both Mr. Diggs and to Mr. Petrie?

A. Yes, sir.

Q. Tri-State Container Corporation?

A. Yes, sir.

Q. What persons have requested information from you?

A. Mr. McDonald.

Q. And you have also given information to him?

A. Yes, sir.

Q. Union Bag-Camp Paper Corporation.

A. Yes, sir. Mr. Wulff, Mr. Grimes, Mr. Faulkner, Mr. Butler, who is now deceased, Mr. Pritchett.

Q. And you have in turn given information to each of these persons?

[Tr. A-632] A. Yes, sir.

Q. West Virginia Pulp and Paper Company?

A. Yes, sir. Mr. Holt, Mr. Orcutt.

Q. And you have given information to Mr. Holt and Mr. Orcutt?

A. Yes, sir.

Q. The Weyerhaeuser Company?

A. Yes, sir. Mr. Elliott and Mr. Clayton.

Q. And you have given information to both of them?

A. Yes, sir.

Q. The Waterbury Corrugated Container Company?

A. Is that Blue Ridge Container?

Q. Yes, sir.

A. Yes, sir.

Q. The person?

A. Mr. Reynolds.

Q. And have you given Mr. Reynolds information?

A. Yes, sir.

Q. Sir, for the sake of brevity, as we went through the list I have referred to giving information, and I would like to repeat once again, the information to which we had reference was the information which your competitor was then charging a specific customer or where he had made the request, the price which you were then charging a specific customer. Is that the information to which we have reference?

[Tr. A-633] A. Yes, sir.

Q. In each of these cases, sir, was the information given only upon request?

A. Yes, sir.

Q. Sir, when you receive these requests for information, where do you obtain the dollar and cents figure that you supply?

A. I obtain it from sales service order record cards and profile cards which are carried in the sales service department, our estimating department.

Q. Sir, would you describe the sales service order record card?

A. Yes, sir. The sales service order record card is recorded on one side, carries all the specifications of the box, the liner combinations, the style, the printing, the joint, and the figures where we estimate the price, in a column we list if it was quoted to the customer and the date if it was sold, we list the date of the order, the quantity and the price.

Q. Does each of these cards concern itself with one type of container?

A. Yes, sir. The order record card does.

Q. For each specific customer, is that right?

A. Yes, sir. It is a card, complete. If it has pads,

[Tr. A-634] partitions or any interior parts, it is carried on one card to make one complete unit.

Q. The profile card, sir, will you describe it, please?

A. Yes, sir. The profile card carries the name of the customer, the level at which the customer is being sold, and information on method of shipment, and receipt by the customer, and palletizing, bundling instructions, and so forth, general information on the account.

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Q. On what occasions would you have reference to the profile card rather than the sales service order record card in answering a competitor's request?

A. Well, the two are tied together. They give you an opportunity to check because on your profile card you show the dates where any price was changed to a customer and when you pull your order record card, it gives you a check whether you sold the customer a particular item at the last price which you show as being effective for that customer.

Q. The effective price shows on the profile card, and then you are able, by looking at the sales service record card—

A. The order record card, to tell whether we have sold that account since the price had been either increased or decreased.

Q. On these occasions where this information has been [Tr. A-635] requested, do you at all times refer to both cards?

A. Yes, sir.

Q. Have you at any time given a price on a box which had been quoted but not yet sold?

A. It is possible that I have, but it is not a practice.

Q. That possibility would have been during the period to which we have reference, it could possibly have happened during that period?

A. Yes, it could possibly have happened.

Q. On these occasions what is the information which you give to your competitor? Do you give him the level?

A. In the majority of the cases we give the level and the set-up rather than the end price.

Q. Do you give it with reference to a manual?

A. Not with reference to a manual. I would give it as \$12.35 base and \$25 set-up or \$13.60 base and \$25 set-up.

Q. Are there other occasions when you do not give a level and a set-up charge?

A. Yes, sir.

Q. And on those occasions, what information do you give?

A. I give the end price on any particular item a competitor was asking for. In such instances, if they mentioned a particular account, I ask for the box style, the [Tr. A-636] liner combination or the test and the specs on the size and so forth before I give them end prices.

Q. On all of these occasions, sir, have you given the information which actually appears on your records?

A. Yes, sir.

[Tr. A-200]

Wednesday, March 11, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Owens-Illinois Glass Company: Welch Jordan.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; Carolina Container Company; and Waterbury Corrugated Container Company.

DEPOSITION OF T. M. COX, JR.

(PX-11)

[Tr. A-201] Q. Will you state your name and home address?

A. T. M. Cox, Jr., 11 San Diego Road, Ponte Vedra Beach, Florida.

Q. Mr. Cox, for the record, will you state your first name?

A. Thomas.

Q. Mr. Cox, with whom are you presently employed?

A. Owens-Illinois Glass Company.

Q. What is your present position?

A. General Manager of the Southeastern region of the Forest Products Division of Owens-Illinois.

[Tr. A-202] Q. During the past two years in your position as General Manager of the Southeast region, what has been your responsibilities as far as the corrugated container operations of Owens-Illinois is concerned?

A. I am responsible for the manufacture and sale of corrugated boxes in the Southeastern United States.

[Tr. A-207] Q. Mr. Cox, would you state for me again so that I can be clear in my questions about the time, ap-

proximately what month and year was it that you became general manager of the Southeast region again?

A. October of 1961.

.

Q. In these plants in the southeast region what was [Tr. A-208] your responsibility as to pricing, yours, your personal responsibility as to pricing?

A. It is an overall supervisory responsibility.

Q. During this period who had pricing responsibility in each plant under your supervision?

A. The majority of the decisions are made by the general manager and/or the sales manager.

Q. In these plants did the general manager and sales manager have coordinate responsibility for pricing or was one superior over the other?

A. Well, the general manager of course has the overall responsibility.

.

Q. During this two year period where was your own [Tr. A-209] headquarters?

A. Jacksonville, Florida.

Q. Did you have any occasions during that period to consult with your general manager in connection with prices?

A. Yes, sir.

Q. Did that at any time involve consultation in regard to specific jobs?

A. On occasion, yes.

Q. Would you kind of outline for us how these occasions would come about?

A. If a general manager was considering the advisability of taking some business that was getting pretty close to borderline as to whether we could make a profit on it or not, he would very likely consult with me in an overall sense.

Q. In those cases did you ever make the ultimate decision as to a price to be charged a customer?

A. I suppose that I did, yes.

.

Q. Mr. Cox, will you tell us, please, what was the policy of your company insofar as you know it during this two-year period concerning the giving or receiving of price information to competitors on specific jobs?

A. Our policy was that we did this, both give and receive.

[Tr. A-210] Q. Now, when you first entered upon this job in or about October 1961, was that the policy at that time?

A. Yes, sir.

Q. Did that continue without change up into October 1963?

A. Yes, sir.

Q. Would you tell us, please, how you learned of the policy?

A. No, sir, I am afraid I can't tell you that. I don't remember.

Q. Did you personally ever contact any competitors during this period to obtain pricing information on specific jobs?

A. Yes, sir.

Q. On these occasions did you ever contact a competitor to request specific information?

A. Yes, sir.

Q. Did you also receive requests from competitors for pricing information on specific jobs?

A. Yes, sir.

Q. Now I believe you testified that under normal circumstances the plant manager or general manager, rather than yourself, would determine the price, is that true?

A. Yes.

Q. Will you tell us, please, under what circumstances [Tr. A-211] you would request information from a competitor, pricing information on a specific job?

A. It would very likely be in a case where I had been involved with the general manager in a decision or in a few instances perhaps where the general manager felt that my contact with someone in that other company would result in better information than he felt he was capable of getting.

Q. Well, confining ourselves to situations where you requested the information, would you normally do this as a result of some conference with one of your sales managers?

A. General managers.

Q. General managers?

A. Yes, sir.

Q. Now in situations where information concerning specific jobs was requested of you, how would this arise? Would this come from the plant or would it come direct from a competitor?

A. Direct from a competitor.

Q. From what source in your own company would you obtain the information that was requested?

A. From the general manager of the plant.

Q. Would you call him up by phone, possibly, to obtain that information?

A. Yes, sir.

Q. Would you know of your own knowledge from what [Tr. A-212] source he obtained it?

A. No, sir.

Q. Now, Mr. Cox, when you furnished this information to a competitor, did you give him the accurate information insofar as you had obtained it from your sales manager?

A. Yes, sir.

Q. Mr. Cox, in October 1961, when you first became general manager of the Southeast Region, were you aware of this policy as being in existence prior to that time?

A. I am not sure I understand.

Q. When you became manager of the Southeast Region in October of 1961, did you have any knowledge as to whether the policy of your company of permitting the giving and receiving of price information to and from competitors had been in existence before that time?

A. Yes, it had been in existence before I came to the Southeast.

Q. I believe I would like to ask you: Can you tell us from your recollection what persons you have either given or received this type of information from? From Container Corporation of America?

A. Bill Colvin.

Q. Colvin?

A. C-o-l-v-i-n.

Q. Albemarle Paper Manufacturing Company.

A. No.

Q. Carolina Paper Company?

A. No.

Q. Continental Can Company?

A. Roy Taylor.

Q. Crown Zellerbach Corporation.

A. No one.

Q. Dixie Container Corporation or Dixie Container Corporation of North Carolina?

A. No one.

Q. Inland Container Corporation?

A. Barney Roberts.

Q. International Paper Company?

A. No one.

Q. The Mead Corporation?

A. No one.

Q. Miller Container Corporation.

A. No one.

Q. St. Joe Paper Company?

A. Mr. Ken Hill.

Q. St. Regis Paper Company?

A. Mr. Bill Diggs.

Q. Tri-State Container Corporation?

A. No one.

[Tr. A-214] Q. Union Bag-Camp Paper Corporation.

A. Mr. Lew Wulff.

Q. West Virginia Pulp and Paper Company.

A. No one.

Q. Weyerhaeuser Company?

A. I don't remember anybody there.

Q. The Waterbury Corrugated Container Company?

A. No one.

Q. Mr. Cox, on the occasions when you requested information, pricing information, concerning a specific customer from a competitor, did you request that information in the form of an overall end price?

A. My request was phrased generally that I wanted their past market.

Q. I mean was that in terms of the complete end price?

A. On occasion it was.

Q. In what other forms was it?

A. In the form of the base price for board and set-up.

Q. Would you tell us what in your own knowledge is meant by base board, I believe that is what you used?

A. Yes, sir. It is the price used in calculating the finished price that relates to the amount per thousand board feet of corrugated.

Q. What, in your own words, is the set-up charge, which is the term you used?

[Tr. A-215] A. It is the amount of money that is charged for the set-up of the machinery to run this particular customer's box.

Q. When you received this information, was this, in turn, passed on to the particular sales manager who was involved?

A. The general manager of the plant, yes.

Q. On occasion when pricing information concerning specific customers was requested of you, was the request for an overall end-price or in other terms?

A. Without being able to give you specific instances, my recollection is that it would be in both forms at times.

Q. It would at times include mention of a set-up charge?

A. Yes.

[Tr. A-706]

Wednesday, March 11, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, St. Joe Paper Company: Jack F. Canady, Jr., Winfield Blackwell, Robert M. Goolrick, Richard A. Whiting.

Other counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; Carolina Container Company; and Waterbury Corrugated Container Company.

DEPOSITION OF WILLIAM L. THARPE

(PX-35)

[Tr. A-707] Q: Mr. Tharpe, will you state for the record your full name and address and your business address?

A. William L. Tharpe, 325 Shenandoah Drive, Birmingham, Alabama. Business address, 3340 Vanderbilt Road.

Q. Your employer, sir?

A. St. Joe Paper Company.

Q. Will you give us the history of your employment with St. Joe Paper Company, the dates and positions held and locations?

A. Yes. Starting from the longest date, I came to work for St. Joe Paper Company in 1949, in March, I believe it was, as an office manager. I was in that position until about 1954, I believe it was, then I was promoted to sales service manager of the Port St. Joe plant. In the middle of 1959 I was transferred to Birmingham and named general manager of our Birmingham Container Division.

Q. You have continued in that position up to the present?

A. Yes, sir.

[Tr. A-710] Q. During this period, sir, have you ever had occasion to request from one of your competitors the prices which he was then charging a specific customer for a corrugated container?

A. Yes.

Q. Have your competitors requested the same information from you on occasion?

A. On occasion, yes.

Q. When you have received these requests, sir, where did you obtain—I withdraw that.

When you have received these requests, sir, did you supply the competitor with the information requested?

A. Yes, I did.

Q. Where did you obtain this information?

A. We refer to it as a cost sheet and order record card.

Q. Will you describe that for me, please?

A. It is an eight by ten sheet of paper printed on both sides. On one side we have a provision—a special form provision for figuring the price of a box on our cost manual. On the opposite side we have an order record, an order history of that particular container to that particular customer over a period of time and the last price we have sold at. These are actual order records I am speaking of.

Q. When these requests were received did you supply [Tr. A-711] the information which appeared on that record?

A. Yes, I did, from the actual order record.

Q. On any of these occasions did you supply prices which you had quoted but on which you had not yet received an order?

A. No, sir, not to my recollection, I did not. We always took the price we gave directly off our cost and order sheet.

Q. Prior to the time that you began using the St. Joe cost manual did you use the same records to obtain this information?

A. We used a form of the same record. The form since has been revised but we have carried forward the order history.

Q. What was the name of the form again?

A. Cost sheet and order record.

Q. You describe that as containing a place where the cost of the box had been estimated using the St. Joe cost manual?

A. That is right.

Q. Prior to the time that the St. Joe cost manual was available to you what information did this cost sheet and order record contain?

A. It contained essentially the same information except we didn't use St. Joe cost manual. We used whatever [Tr. A-712] available manual we had at the time which was the Inland manual, fully realizing this was not the cost but was a substitute. This was a new plant. At that time we had not developed a cost.

Q. The figure which was arrived at was a selling price, is that right?

Mr. Whiting: What figure are you talking about?

By Mr. Sliney:

Q. Did a dollar and cents figure, a final dollar and cents figure appear on this cost sheet and order record?

A. Yes, ~~in~~ final dollar and cents figure it did. Now this figure may have been, may have had a percentage, five percent, two percent or ten percent added to it or taken from it but a final figure did appear, a figure and then a sub-figure so to speak with a figure added—a figure percentage added to or taken off.

Q. Would the sub-figure represent a selling price?

A. Yes, it would.

Q. Would the information which you supplied to the competitor be the most recent price appearing on that card?

A. Yes, it would.

Q. When you gave this information, sir, did you make any notation on your records?

A. No, I did not.

Q. Do you have any record of any kind indicating [Tr. A-713] occasions when you received or made these calls to your competitor?

A. No, I have no record.

Q. Of what benefit was it to you, sir, to give this information to your competitor?

A. The benefit that I think we arrived at was the fact that we could secure this information, similar information, on occasions when we desired.

Q. From your competitors?

A. From our competitors, right.

Q. Was this the only benefit that you saw that—in giving this information?

A. Well, we made a very sincere effort, and still do, to study our market. This was one of the many factors that

in our opinion we used to study the market to determine the prices. This would at times be available and at other times not necessarily be available.

Q. The giving of information?

A. And taking, both of them.

Q. I am referring to the occasions when you specifically supplied information to your competitors?

A. I think the prime benefit which you derive from that is that I would expect to receive similar information should I request it.

Q. Was there any other benefit to you that you [Tr. A-714] considered in deciding whether or not to supply this information?

A. The benefit that I see, the overall benefit that I derived is that I would not be able to study my market if I didn't have the right to request this information. To me the benefit is not necessarily getting the information but the benefit is using the information to study the market in order to quote the price.

Q. Apart from the information which you were able to obtain from your competitors and referring to the occasions on which you gave information to the competitors?

A. Well, the two are pretty well tied in together. If you give the information you in turn expect information and when you can get the information on occasions when you need it you can use that information to study the market along with other factors involved in quoting a box and deciding what is the price you will quote.

Q. Was the opportunity to obtain this information in the future the only consideration you had in mind when you decided to supply this information to a competitor upon his request?

A. I can't think of any other reason.

Q. Did you seek this information exclusively by telephone?

A. Yes.

Q. Was this information sought from you exclusively by telephone?

A. Yes.

[Tr. A-715] Q. Did this involve long distance phone calls?

A. It did.

Q. In both directions?

A. Yes, sir.

Q. Were there occasions, sir, when more than one phone call was necessary to obtain the information which you desired?

A. I don't ever recall having made or having received more than one telephone call.

Q. With respect to one specific price for one specific customer?

A. That is right.

Q. Do you recall, sir, under what circumstances you would make these calls to your competitors?

A. Yes. I think in order to explain that maybe we should briefly explain, not to take up too much time, the mechanics of this thing. We receive an inquiry from one of our customers either through our salesmen or through the mail. This inquiry comes in, it comes in our sales service department. At that time we analyze this to see if we want the business from the desirability standpoint. Does it fit in with our mix, do we need it, is the credit okay. There are many things to check on this. After it is determined that we do want this particular piece of business in our plant, then we begin to explore how we are going to price [Tr. A-716] this business. At that time we pass it over to our cost department to make the cost on this particular piece of business.

At that time our sales service department has an opportunity to check a number of things there, is the credit okay. Who is the last supplier of this particular box? Has our customer given us guide information or shown us quotes of previous suppliers? Do we have a sample of the box in our plant? Is it the type of board we want to run in our plant? There are a number of things. When we pull these together if it looks like we don't have enough information from the general territory to determine what the price might be, then we might choose to call our competitor and find out what his past market was on that particular item.

I might state this is done with not a lot of frequency. We have many factors involved in this.

Q. When you say past market, sir, will you ask a competitor for the price he was then charging his customer?

A. I would ask the competitor what price he has charged for that particular box. Many times I have a sample of

his box in front of me. If it has a stamp on it I know whose box it was.

Q. This is always in reference to a specific customer?

A. Yes, a specific customer or a specific box for a specific customer.

[Tr. A-720] Q. During the period to which we have reference, Mr. Tharpe, have you ever found yourself in the presence of your competitors when the subject of prices of corrugated containers in the area to which we have reference was mentioned?

A. No, sir.

Q. I would like to ask one question. When you said, as I believe you did, that when you gave information as to [Tr. A-721] past market to a competitor at his request, you expected to get information back, would you clear up for me what you mean by the word "expect"?

A. Well, on occasions when I called the competitor and asked for a price, past market I am speaking of here, in order to use as a basis along with the other factors to compute my price, I would expect him to give me an end price which the price I am asking for is the last price he sold containers for in terms of one price.

Q. Did you have assurance when you gave the price that on another occasion you would get a price back?

The Witness: No, there was no assurance that you would get any price back.

[Tr. A-317]

Wednesday, March 11, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant: St. Joe Paper Company: Jack F. Canady, Jr., Winfield Blackwell; Robert M. Goolrick, Richard A. Whiting.

Other Defense Counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; Carolina Container Company; and Waterbury Corrugated Container Company.

DEPOSITION OF KENNETH B. HILL

(PX-18)

[Tr. A-318] Q. Mr. Hill, with whom are you presently employed, sir?

A. St. Joe Paper Company.

Q. What is your present position, sir?

A. Coordinator, Container Division.

Q. Would you tell us, please, how long you have been in that position?

A. Since May first of 1961.

Q. And before that time, were you also with St. Joe?

A. Yes.

Q. In what capacity, sir?

A. General Manager, Hackensack, New Jersey Plant.

Q. And for approximately how long?

A. Twelve years.

Q. Was that position in connection with corrugated container operations?

A. Yes, sir.

Q. Mr. Hill, where are your present headquarters?

A. Jacksonville, Florida.

Q. Would you tell us, please, referring to the period from May 1, 1961, until October, 1963, what were your responsibilities as far as the corrugated container operations of your company are concerned?

A. Overseeing construction and the equipping of new plants.

[Tr. A-319] Q. When you say new plants, does that mean that you did not have supervision over already existing plants?

A. No, it does not mean that. I did.

Q. Now, in each of the plants you have mentioned, what is the position of the person in charge of the plant?

A. General Manager.

Q. Mr. Hill, confining ourselves to pricing as distinguished from operating in the plants, what is your own responsibility as to pricing of containers you sell?

A. I have no responsibility for pricing.

[Tr. A-321] Q. Mr. Hill, did your company during the period May 1961 to October 1963 have a policy regarding giving price information to competitors on specific jobs?

A. A policy? No.

Q. Speaking from your own personal knowledge, during this period of May 1961 to October 1963, do you know whether or not your general managers have at any time given information on prices for specific jobs to competitors?

A. I believe I am on record, as I indicated before, I do not specifically know, but I feel certain that they have.

Q. Fine. Would the same answer apply to situations—strike.

Do you know whether or not during this period your general managers have themselves requested similar information from competitors?

A. Whether our managers have requested from competitors?

Q. Yes, sir. This is the reverse.

[Tr. A-322] A. Not to my knowledge.

Q. You do understand that?

A. I understand. You asked it in the reverse.

Q. All right. Well, then, will you tell us, please, in your own opinion of what benefit was it to your company

during this period of May 1961 to October 1963 to furnish this information on occasion to competitors?

A. You would have to ask the general managers. I don't know.

Q. In view of your experience, would you tell us in your opinion would it be of any benefit to your company?

A. I daresay it would, yes.

Q. Of what benefit?

A. I would call it guidance.

Q. Would you characterize that a little for us, what you mean by guidance?

A. I have heard it referred to as levels. However, I am not familiar with any so-called board base or such as that.

Q. Let me ask you this. How did it provide guidance to your company?

A. In some cases perhaps we were misled as to prevailing prices. We may have seen invoices. This is no attempt to police or involve competitors. It is only for our own information.

[Tr. A-323] Q. Mr. Hill, speaking from your own knowledge of the territory served by your four plants, would you say most of your accounts purchase from several suppliers as distinguished from giving all their business to one supplier?

A. I would say most are supplied by several competitors.

Q. Now if you wished to know what a competitor's price was on a particular account, would there be any way of determining this other than from the purchaser, himself, or from a competitor? If that is not clear, I will re-phrase it.

A. Frankly, I am not interested in the selling price.

Q. I may have confused you. What I am saying is, of what benefit was it to your company in your opinion to give this information to a competitor about your own price?

A. I will say that we were endeavoring not to be destructive.

Q. What do you mean by not to be destructive?

A. Demoralize market.

Q. What do you mean by "demoralize market"?

A. Well, I am sure some, if not all of our competitors have on occasion accepted business at a loss.

Q. Now how would your furnishing or how did your furnishing of information to a competitor do anything to correct that situation?

Mr. Whiting: Objection, Mr. Freeze. I am not sure [Tr. A-324] what the record shows but did Mr. Hill testify that he knows that they furnished information to a competitor?

Mr. Freeze: Rather than go back over it and try to find it, with your permission I will state my recollection and ask Mr. Hill to correct it if I am wrong. It is my understanding that Mr. Hill stated in response to my question as to whether his general managers had given pricing information on specific jobs to competitors, he stated that he felt that they had. I will be glad for Mr. Hill to correct me if I am wrong.

The Witness: That is right. I said I am certain that they have.

Mr. Freeze: Does that answer your question?

Mr. Whiting: Go ahead.

By Mr. Freeze:

Q. Now my present question is as to how the giving of this information benefited your company.

Mr. Whiting: If it was given.

By Mr. Freeze:

Q. If it was given?

A. I will again reply, guidance.

Q. How would giving out your prices be guidance to you?

A. Naturally we didn't wish to lose the business.

Q. Assuming your general managers gave this information on specific prices, whom would this guide?

[Tr. A-325] You stated it would guide. Whom would it guide?

A. The general manager, for his quotations, I am implying.

Q. Whose general manager?

A. Our general manager to the competitor that may have

called and our general manager returned the call, at his request.

Q. Mr. Hill, again I repeat we are confining ourselves to this period of May 1961 to October 1963. When your general managers gave price information on specific jobs to competitors did this in your opinion furnish guidance to the competitor requesting the information?

A. Yes.

Q. Now what benefit would—strike that.

Now what benefit did your company in your opinion derive from that?

A. I feel that it helped them secure additional business.

Q. How would it help them secure additional business?

A. Outselling, promoting, particular quality that we may have felt we possessed or may have had to offer.

Q. Limiting our remarks to the giving of information to competitors by your general managers which you said did furnish some guidance to them, I am still just not clear as to [Tr. A-326] how this would help you in determining or in any way help you in any way. Can you clarify that?

A. Help me personally?

Q. No. Help your general managers or your company in any way. Would you clarify that?

A. I feel that this enabled them to sell at a fair price.

Q. Enabled who to sell at a fair price?

A. Our general managers for our particular plants.

Q. I am still just not quite clear. Your general managers gave a price under these circumstances, is that true?

A. I can't answer for them. I suppose they did. But I can't answer.

Q. What I was getting at, how would that furnish any guidance to your general managers?

A. I feel that this enables them or is a means of ascertaining a fair selling price.

Q. Do you mean your own general managers?

A. Yes, or sales managers.

Q. What I was trying to do, under this situation your general managers would be giving out the information. Is that right?

A. If requested.

Q. Right. How would that enable them, your general managers—

[Tr. A-327] A. To benefit?

Q. —to benefit, yes.

A. To hold on to the business.

[Tr. A-254]

Wednesday, March 11, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, St. Regis Paper Company: Norman Block, H. Richard Wachtel, Horace Lamb.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; Carolina Container Company; and Waterbury Corrugated Container Company.

DEPOSITION OF PHILIP B. DUFFY

(PX-14)

[Tr. A-256] Q. Mr. Duffy, with whom are you presently employed?

A. St. Regis Paper Company.

Q. Your position?

A. I am a Group Vice President.

Q. In that position, are you connected with the corrugated container industry of St. Regis?

A. The General Managers of the Folding Carton Division, the Wire-bound Box Division, the Corrugated Container Division, the Sherman Paper Products Division and the Sisal Craft Division report to me.

Q. I don't think I need to remind you that our questions today will be confined to the corrugated container industry.

Now, how long have you been in your present position, Mr. Duffy?

A. Do you mean the Vice President of St. Regis?

Q. Group Vice President.

A. Well, we created this classification or this office last April, in April, 1963.

Q. Before that, what was your position?

A. I was the Vice President of the company and was in charge of the Folding Carton Division, the Wire-bound Box

[Tr. A-257] Division, and the Corrugated Container Division.

Q. And for approximately how long, Mr. Duffy?

A. I was made a Vice President of St. Regis in April of 1960.

Q. Before that, were you connected with corrugated containers with St. Regis?

A. I joined St. Regis when the F. J. Kress Box Company of which I was Executive Vice President merged with St. Regis.

Q. About when was that?

A. On January 1, 1958.

Q. Then your connection with corrugated containers with St. Regis would actually date from January 1, 1958; is that true?

A. Yes, sir.

Q. Mr. Duffy, to your own knowledge, do personnel in your container division of your company contact representatives of competing firms for any type of price information?

A. Yes, they do.

Q. Do you know of your own knowledge whether your own personnel has been requested by competitors to furnish price information on specific jobs?

[Tr. A-258] The Witness: I have to assume they have been contacted. I know this practice is well established in the industry. I am not ignorant of that fact and we have participated in this.

By Mr. Freeze:

Q. What is your company policy in regard to such requests from competitors for information, price information, on specific jobs?

A. Our company policy has been to give and to request information as to past transactions, completed transactions.

Q. In the period, January, 1958 until October, 1963, have there been any policy changes to your knowledge?

A. No, sir.

Q. Now, at what echelon in your company would these exchanges or the giving and receiving of information take place?

A. At the sales manager level and on occasion, probably with the general manager level.

Q. Have there been any occasions when you have been contacted by a competitor for pricing information on a specific job?

A. Well, I couldn't remember exactly who it was but I remember several occasions where customers contacted me about a past transaction.

Mr. Lamb: Customers?

[Tr. A-259] The Witness: I mean competitors.

By Mr. Freeze:

Q. Do you remember any specific instances?

A. No, I don't. I only remember the fact that I don't know any past prices. This is not in my area. I don't have access to past prices.

[Tr. A-216]

Wednesday, March 11, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, St. Regis Paper Company: Norman Block, H. Richard Wachtel, Horace Lamb.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; Carolina Container Company; and Waterbury Corrugated Container Company.

DEPOSITION OF W. L. DIGGS

(PX-12)

[Tr. A-217] Q. State for the record your full name and residence?

A. W. L. Diggs, 819 Phillips Street, Jacksonville, Florida.

Q. Your employer and your business address, please?

A. St. Regis Paper Company, Container Division, Post Office Box 18016, Jacksonville, Florida.

Q. Would you review for us the history of your employment in St. Regis, the dates and positions?

A. I was formerly with the Kress Box Company, Hagerstown, Maryland. St. Regis merged the Kress Box Company January 1, 1958. I was transferred from that location to the Jacksonville location as general manager-sales manager combination, March 15, 1959. I held those two positions until March 1961, at which time Mr. J. W. Petrie was assigned as sales manager.

I continued to hold the title of general manager until the end of the year—Wait a minute. I am confused. 1961, September, I was named Southeastern District Manager and continued to have those two titles until December 31, 1963. January 1, 1964, Mr. Petrie was moved up to general manager. Mr. Thomas Girard, salesman, was moved up to sales manager.

Q. Your present title is Southeastern District Manager, is that right?

[Tr. A-218] A. Yes, sir.

Q. Prior to March 15, 1959, you were not located in the Southeast United States as defined by the complaint?

A. No, sir.

During that period, sir, what geographical area did the Jacksonville plant serve?

A. The Jacksonville plant serviced Florida as far south as Tampa, parallel across the state, Georgia, South Carolina, Alabama.

Q. Was that throughout the period to which we have reference?

A. No, sir. If my recollection is correct, that was up to the fall of 1960.

Q. And then?

A. And then the territory was retracted to its present servicing area.

Q. Which is?

[Tr. A-219] A. Which is Florida to Tampa, the southern half of Georgia, all of South Carolina, and the very edge of North Carolina up to Gastonia, Charlotte.

Q. The area in north Georgia, sir, what happened to that area?

A. That area? St. Regis through acquisition purchased the Atlanta Container Company.

Q. That was in the fall of 1960?

A. That was in the fall of 1960.

Q. And north Georgia is now served by the plant in Atlanta?

A. That plant services a radius of approximately 90 miles from Atlanta, to the edge of Tennessee, Chattanooga.

Q. The Alabama area that had been serviced by the Jacksonville plant?

A. In 1961, in the fall, St. Regis acquired the Nifty Manufacturing Division.

Mr. Lamb: What was it called prior to the designation of Nifty Division?

The Witness: Birmingham Paper Company.

By Mr. Sliney:

Q. That was in 1961?

A. Yes, sir. In the fall.

Q. And the area serviced by that plant?

A. That plant services all of Alabama, the very [Tr. A-220] Panhandle, western section of Florida, one-half of Mississippi on the east, the very edge of Georgia on the west and the western half of Tennessee, up as far as Memphis.

[Tr. A-224] Q. Mr. Diggs, during the period from March 15, 1959 to October 14, 1963, has it been your practice, when necessary, to request of a competitor the price which he had most recently charged a specific customer, for corrugated containers in the Southeast United States?

A. Yes, I have requested that information.

Q. Have your competitors made such requests of you?

A. Yes, sir.

Q. Have you given your competitors the information that they have requested?

A. Not always.

Q. On those occasions when you did give them this information, sir, where did you obtain it?

A. From the completed order hard copy file of the specification as filed under the customer's name by box identification, whatever it might be.

Q. Will you describe the file for us, please sir, what it contains?

A. This file is filed by customer. On one side, it contains the complete customer specification. On the reverse side it contains the manner in which we arrive at the price and a history of the item, as it is received, scheduled and [Tr. A-225] billed.

Q. Is this correct, sir, there was one card for each box specification for each customer; is that correct?

A. That is correct.

Q. When you gave this information, did you give the price which then appeared on that record?

A. Yes, sir.

[Tr. A-230] Q. At any time during this period, sir, have

you discussed the fact that you were receiving these requests and making these requests with Mr. Duffy?

A. Yes, sir.

Q. What do you recall about that discussion?

A. I asked him a policy decision.

Q. Do you recall anything further?

A. I recall that he gave me a policy decision.

Q. Do you recall what that decision was?

A. To continue to give past markets, receive past markets:

Q. Do you recall, sir, that you said anything else at the time other than asking for a policy decision?

A. Not that I recall.

Q. Did you give any reason why you were asking a policy decision at that time?

A. Yes. When I first came to Jacksonville it was in existence and I was not fully cognizant of the manner in which the telephone was being used. I felt it was time to receive a decision.

Mr. Lamb. You mean a decision on the policy?

The Witness: Decisions on the policy of giving and receiving past market.

[Tr. A-231] Q. Did you find, sir, that phone calls, requested—requests for information, from competitors interfered with the performance of your other duties?

A. No, they weren't that numerous.

Q. They were not?

A. No, sir.

[Tr. A-232] Q. With reference to requesting from a competitor the price which he had most recently charged a specific customer and with reference to requests from a competitor and in those instances where you supplied the same information, I would ask you to refer to the list of Defendants appearing on the first page of the complaint filed in this action and list for me the individuals with each of these companies to whom you have spoken, either given

this information or received this information, during the period prior to October 14, 1963.

Container Corporation of America?

A. Norman Alday and Dell Theabold, T-h-e-a-b-o-l-d.

Q. Albemarle Paper Manufacturing Company?

A. I am not familiar with that company.

Q. Carolina Container Company?

[Tr. A-233] A. Carter Holbrook.

Q. Continental Can Company, Incorporated?

A. Roy—Atlanta?

Q. Do you know Mr. Taylor?

A. Roy Taylor.

Q. Is there anyone else from Continental Can Company, sir?

A. Not that I can recall.

Q. Crown Zellerbach Corporation.

A. Fred Rushing, Lee Ross and Gordon Clark.

Q. Dixie Container Corporation?

A. I am not familiar with Dixie.

Q. Dixie of North Carolina?

A. No, sir.

Q. Inland Container Corporation?

A. Mr. Roberts, Mr. Ted Davis.

Q. International Paper Company?

A. Mr. Reid. Mr. Bruce Fox.

Q. The Mead Corporation?

A. Mr. Bloom.

Q. Miller Container Corporation?

A. Not familiar.

Q. Owens-Illinois Glass Company?

A. Tom Cox, Mr. Rosenbloom.

Q. Would that be Rosenbaum, sir?

[Tr. A-234] A. Rosenbaum, correct.

Q. St. Joe Paper Company?

A. Mr. Ashley.

Q. Tri-State Container Corporation?

A. Mr. McDonald.

Q. Union Bag-Camp Paper Corporation?

A. Mr. Lew Wulff, Mr. Frank Grimes and Mr. Pritchett.

Q. West Virginia Pulp and Paper Company?

A. Mr. Holt.

Q. Weyerhaeuser Company?

A. Mr. Hansen.

Q. Is there anyone else from Weyerhaeuser, sir?

A. George——

Q. Do you know Mr. George King? That is not the name?

A. I can't remember his name.

Mr. Lamb: George Elliott?

The Witness: George Elliott.

[Tr. A-444]

Thursday, March 12, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Tri-State Container Corporation: D. Newton Farnell, Jr., James A. Weller.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; and Carolina Container Company.

DEPOSITION OF ALAN C. McDONALD, JR.

(PX-23)

[Tr. A-445] Q. Mr. McDonald, would you state your full name and address, please?

A. Alan C. McDonald, Jr., 715 Green Lane, Johnson City, Tennessee.

Q. Your employer and your business address?

A. Tri-State Container Corporation, Elizabethton, Tennessee.

Q. Will you review for us the history of your employment at Tri-State Container Corporation?

A. Became employed by Tri-State Container January 1, 1953.

[Tr. A-446] Q. During this period, Mr. McDonald, have you on occasion contacted representatives of your competitors?

A. I have, sir.

Q. To ask the price which they were then charging a specific customer for corrugated containers in the Southeast United States?

A. Past market, yes, sir.

Q. When you say past market, sir, what do you mean?

A. Consummation of a sale.

Q. The consummation of a sale?

[Tr. A-447] A. In other words, if I am calling somebody, I don't care what he is quoting, I want to know what in the past he has sold boxes for.

Q. Do you have any way of knowing, sir, whether he is giving you a quote or—

A. Absolutely not.

Q. And the sale in which you would be interested, is that the most recent sale?

A. That is correct.

Q. During this period have you been contacted by competitors?

A. Yes, sir, I have.

Q. What information have they sought from you, sir?

A. Past market.

Q. The information which you supplied would be your most recent past sale?

A. Correct.

Q. This would be in reference to a specific customer?

A. That is right.

Q. Was this throughout the period from January 1, 1955 to October 14, 1963?

A. Yes, sir.

Q. Mr. McDonald, I show you a copy of the complaint as filed in this action. With reference to the list of defendants appearing on the first page I would ask you, have [Tr. A-448] you either—I ask you, would you name for us please, sir, the individuals with each of these companies to whom you have given or from whom you have received what you have defined as past market information with reference to a specific customer during the period to which we have reference and in the southeast United States?

Container Corporation of America?

A. Bill Colvin, Adolph Clay, and J. D. Evans. That is all I can recall right now.

Q. The Albemarle Paper Manufacturing Company?

A. I am not too positive about that but possibly I have had communications with Tony Bagley—that is Richmond Container.

Q. Carolina Container Company?

A. C. T. Ingram, Carter Holbrook, Tom Webster.

Q. Continental Can Company, Inc.?

A. Bob Groner, Bill Beams, Roy Taylor.

Q. Crown Zellerbach?

A. George King, Lee Ross, Gordon Clark, Cline Bennett.

Q. Dixie Container Corporation?

A. To my best recollection, Mr. Mitchell and Mr. Schwind. That would include North Carolina.

Q. That includes Dixie Container of North Carolina?

A. Yes.

Q. Inland Container Corporation?

[Tr. A-449] A. Lew Reid and Spike Ennis.

Q. International Paper Company?

A. Wait a minute. Inland. I am sorry.—Inland would be Frank Talbot and Barney Roberts.

Q. Now International Paper Company?

A. Lew Reid and Spike Ennis.

Q. The Mead Corporation?

A. Dave Bloom and Bob Waincott.

Q. Miller Container Corporation?

A. Harold Kyle and Bill Noftsinger.

Q. Owens-Illinois Glass Company?

A. Ken Rosenbaum, Hays McKee.

Q. St. Joe Paper Company?

A. I don't think so.

Q. To the best of your recollection you have not?

A. That is right.

Q. Neither received—you have neither received nor requested information?

A. Yes.

Q. St. Regis Paper Company?

A. Petrie, I think his name is.

Q. Union Bag-Camp Paper Corporation?

A. John Pritchett, Ed Faulkner, John Butler, Lew Wulff.

Q. West Virginia Pulp & Paper Company?

A. Dave Orcutt, Alan Holt.

[Tr. A-450] Q. Weyerhaeuser Company?

A. Ivan Wood, George Elliott and Alan Clayton.

Q. The Waterbury Corrugated Container Company?

A. Joe Reynolds.

Q. With reference to all of these companies, sir, you have either received or given what you have referred to as past market information?

A. That is right.

Q. Are these priced on a delivered basis?

A. That is right. With some exceptions. We have pick ups very occasionally in the plant where a customer will have trucks coming through our location and they will pick up an order.

Q. That would be an exceptional situation?

A. It would.

[Tr. A-451] Q. Have you ever received by telephone from a competitor a specific customer's price on an occasion when you have not requested this information?

A. No, sir.

[Tr. A-514]

Thursday, March 12, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, West Virginia Pulp and Paper Company: Armistead W. Sapp, James Dale Thom.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; and Carolina Container Company.

DEPOSITION OF DAVID ORCUTT

(PX-26)

[Tr. A-515] Q. Mr. Orcutt, will you state for the record your full name, and address?

A. David B. Orcutt, Jr., 8030 Marilea Road, Richmond, Virginia.

Q. Mr. Orcutt, your employer and your business address, please?

A. West Virginia Pulp and Paper, 2300 Jefferson Davis Highway, Richmond, Virginia.

Q. Mr. Orcutt, would you trace for us the history of your employment with West Virginia Pulp and Paper Company, please?

A. I was employed by Hinde and Dauch Paper Company in 1941 which merged with West Virginia in 1953, operating as a subsidiary until 1957 when it was fully merged and became a division.

Q. Sir, what positions did you hold during that period?

A. Since July of 1962, I have been regional sales manager of the Richmond region. From 1956 until that date, district sales manager of the Richmond district. From 1954 until 1956, assistant district sales manager. From 1949 through 1953 a salesman. From 1946 until 1949, head of the order department. Prior to that, an estimator.

[Tr. A-517] Q. Mr. Orcutt, do you recall any other occasions during the period from October 1957 to October 1963 when you were in the presence of your competitors and the subject of price of corrugated containers in the Southeastern United States was mentioned?

A. Yes.

Q. What do you recall, sir?

A. I recall a meeting at the Raleigh Hotel in Richmond, Virginia.

Q. What do you recall about that meeting, sir?

A. I recall individuals who were present.

Q. And their names?

A. Do you want me to give those to you?

Q. Yes, please.

A. There was Mr. Beams and Mr. Wall, of Continental Can; Mr. Johnson of Dixie Container; Mr. Dozier of Richmond [Tr. A-518] Container; Mr. Noftsinger of Miller Container.

Q. And Mr. Piemonte?

A. And Mr. Piemonte and myself of West Virginia.

Q. Do you recall the time of day when this meeting took place?

A. It was in the evening.

Q. Do you recall the occasion, the year?

A. 1959.

Q. Do you have a specific date?

A. As I recall, it was August.

Q. August of 1959?

A. Yes.

Q. Do you recall, sir, how these people came to be there together in the evening?

A. I told them.

Q. How did you tell them?

A. By telephone.

Q. What did you tell them on the telephone?

A. I told them that we had heard that this customer had advised them of a decrease that we had made in prices and that Mr. Piemonte would explain to them the position of our company.

Q. Did Mr. Piemonte suggest that you call these people?

A. I am sure it was mutual between us, yes.

[Tr. A-519] Q. After a discussion between the two of you?

A. Yes.

Q. Had there been a price increase in this account prior to this?

A. There had been, yes.

Q. What was the nature of that price increase?

A. Would you define for me what you mean by "nature" of it?

Q. Did your company increase its price?

A. Yes, we did.

Q. What was the increase in the price?

A. As I recall, it was approximately 10 percent.

Q. Did other companies increase their prices in that account at that time?

A. I would not know.

Q. Was it your impression at that time that other companies had increased their prices?

A. It was.

Q. Were the companies which were represented at that meeting all suppliers of that account?

A. To the best of my knowledge, yes.

Q. Were there any other suppliers to that account?

A. So far as I know, there were not.

Q. What was the name of the account?

A. Hygrade Corporation.

[Tr. A-520] Q. Is there anyone whom you called who did not come to the meeting?

A. No.

Q. Do you remember, sir, was this a weekday? Was this a business day?

A. I am sure it was a weekday.

Q. Did you go to the meeting from your office?

A. I went home and had my dinner, first.

Q. The meeting took place after dinner?

A. That is correct.

Q. About how long did the meeting last?

A. Probably not more than 30 minutes.

Q. What sort of room was the meeting held in?

A. It was a meeting room, the difference I have already established.

Q. Was it a small meeting room?

A. Quite small, like a parlor in a hotel.

Q. Had you made reservations for this room?

A. Yes, I did.

Q. Had you made those reservations the same day?

A. Possibly so.

Q. At the time you telephoned, did anyone ask you any questions?

A. I don't recall any specific questions.

Q. Had any of these persons previously or about the [Tr. A-521] same time contacted you and asked you about this decrease?

A. I believe I stated it previously, that I had gotten some calls.

Q. Do you recall who called you, sir?

A. No, I don't.

Q. Do you recall representatives of which companies?

A. I could not say definitely.

Q. What was the nature of these calls you had received prior to the meeting?

A. It involved whether or not our policy as announced by West Virginia had been changed.

Q. What was the policy which had been announced, sir?

A. That our prices would be increased.

Q. How was that announcement made?

A. As I recall, through the trade journals.

Q. What journals would those be, sir?

A. They would be the Wall Street and the official board market.

Q. Was this policy announced generally to take effect throughout the Southeast?

A. Yes.

Q. Do you recall when that announcement had been made?

A. No, I do not recall. I could not state.

Q. Do you recall in relationship to August 1959, had it been a month earlier?

[Tr. A-522] A. I would presume possibly a month earlier.

Q. What had you replied to these calls at the time that you received them?

A. What had I replied to them?

Q. When these persons had called you?

A. That Mr. Piemonte would state the policy of our company.

Q. Would you tell us, sir, what happened after the last person arrived?

A. Mr. Piemonte made the announcement that our policy concerning increases had not been changed, that it was our good judgment when we negotiated with the account that we had reduced our level 5 percent.

Q. Did you add anything to it?

A. I did not.

Q. Was that the extent of Mr. Piemonte's opening remarks?

A. His opening remarks as far as I remember, that was in essence what he said.

Q. Did this occur in connection with any other account at that time, sir?

A. No, it did not.

Q. Has it occurred in connection with any other account [Tr. A-523] during any time during the period to which we have reference and at this time—

Q. Had a meeting of the type which you have described taken place, whether or not you called it, but of which you have knowledge, taken place at any time during the period from October 1957 to October 1963?

A. That I attended?

Q. Of which you have knowledge?

A. As far as I know, no.

Q. Excluding your company, sir, has a meeting of this kind taken place among any of your competitors during this period of which you have knowledge?

A. I would not know. This is the only meeting of that nature or type that I attended.

Q. Or of which you have knowledge?

A. Or of which I have knowledge.

Q. Did any of the persons there present make any statement as to what they intended to do?

A. They did not.

Q. Did the amount of business which you were doing with the Hygrade Corporation increase subsequent to this cut in your price?

A. No, it did not.

Q. Sir, I have asked you whether you had previously [Tr. A-524] increased your prices to this account, and you have answered that question.

A. Yes, sir.

Q. Had these other companies, to your knowledge, increased their prices to that account at or about the same time?

A. I don't know.

Q. You have no knowledge of that?

A. That is correct.

Q. Do you have or did you have at that time an impression as to what these companies had done?

A. My impression was that the prices had been increased.

Q. By your competitors?

A. Yes.

Q. To Hygrade?

A. That is correct.

Q. At or about the same general time?

A. Approximately, yes.

Q. Other than the meetings which you have described do you recall any other meetings which you have attended during this period?

A. I remember one such meeting, yes.

Q. Where did that take place?

A. It took place in the office of Mr. Mitchell of [Tr. A-525] Dixie Container.

Q. Approximately when, sir? On what occasion?

A. I believe it was in February of 1962.

Q. Do you recall what companies were represented at the meeting, sir?

A. I can recall some of them, yes.

Q. Please.

A. Continental Can, Miller Container, Richmond Container, and I was there from West Virginia.

Q. Were there other companies represented?

A. Mr. Mitchell, of course, was there, of Dixie.

Q. This is the Mr. Mitchell in whose office the meeting was held?

A. That is right.

Q. Were there other companies represented?

A. I do not recall any others.

Q. Do you recall there were no others?

A. I do not recall any others being present.

Q. What was the subject of the discussion?

A. There had been a board increase, that is liner board increase, and the discussion concerned whether or not the various companies would attempt to recover these increased costs.

Q. By the various companies, sir?

A. I refer to the companies that I have named as the [Tr. A-526] ones I recall being there.

Q. Did you make any statement as to your company?

A. Our company had advised us that we would attempt to increase prices sufficiently to recover this increased cost and I did convey that to this group.

[Tr. A-527] Q. During the period from October, 1957 to October 14, 1963, have you, on occasion, contacted your competitors to obtain from them the price which they were then charging a specific customer for corrugated containers in the Southeast United States?

A. Yes.

Q. Have you been contacted in like manner by your competitors?

A. Yes.

Q. For the same information?

A. Yes.

Q. How did these contacts take place, sir?

A. By telephone.

Q. Was this true on all occasions?

[Tr. A-528] A. I don't recall any in person.

Q. Did these telephone contacts involve long distance calls?

A. Some of them did, yes.

Q. Both those that you made and those that you received?

A. Yes.

Q. On those occasions, sir, when you gave this information to a competitor where did you obtain the information?

A. I obtained the information from an estimate sheet and a quotation.

Q. Are these records that are kept in your plant?

A. They are kept in our office, yes.

Q. Will you describe them for us, please?

A. An estimate is where we estimate to determine a price. A quotation is where we have formally given those prices to a customer.

Q. The figures appearing on the estimate sheet have not necessarily been quoted to a customer?

A. They would be. If they appear on an estimate sheet they would be quoted to a customer, yes.

Q. They would be quoted in the future to a customer?

A. No. When they are put on an estimate, they are also quoted. A formal quotation is mailed to the customer. [Tr. A-529] Unless there is a new size which we have received an order for, we do not necessarily mail a quotation on that.

Q. You are describing an instance where you are already supplying a customer?

A. That is correct.

Q. Is the quotation prepared simultaneously with the estimate sheet?

A. It would have to be prepared after the estimate sheet.

Q. How long after?

A. Usually within the day or two days.

Q. Does the same person prepare both?

A. No.

Q. Has there been an occasion during the period to which we have reference when you have given a competitor a figure from an estimate sheet without knowing whether a quotation had been prepared?

A. I don't recall having done that, no.

Q. Is it possible that that could have happened?

A. The only instance that that could have happened would be if we had supplied a size which we had not formerly quoted the customer. We had supplied the item, however.

Q. When you say supplied, sir?

A. We had manufactured the item, shipped it and invoiced it.

[Tr. A-530] Q. Why would that be the only instance?

A. Because, if we are getting out a price list, we normally follow that with a—after the estimates are completed we follow with a quotation. But if an order should come in for a change in size we would not necessarily confirm that price to the customer except by the way of acknowledgement.

Q. Sir, I have reference to the one- or two-day lapse—I withdraw that term—the one- or two-day difference in time between the time a figure is put on the estimate sheet and the time that a quotation is prepared. Is it possible that a call could have been received by you and the information on the estimate sheet given prior to some other person in your organization preparing a quotation?

A. I don't recall that ever happening. The elapse of time between an estimate and when you mail the formal quote, which we do, except in some instances, is a matter of getting it through your system in the office. It may be done within a matter of minutes. Conceivably, it could be carried over until the next day.

Q. When you gave this information to a competitor, did you, on all occasions, have knowledge that a quotation had been prepared?

A. Yes, I did.

Q. On these occasions, sir, how were these quotations [Tr. A-531] delivered to your customers?

A. They were either mailed direct or sent by the salesman on a call and the quotation was so marked.

Q. How would they be sent to the salesman?

A. It would be either mailed to him or it would be given to him if he came into the office.

Q. Did you, on all occasions, when you gave to a competitor the information on an estimate sheet, have knowledge that the quotation was in the customer's hands?

A. To the best of my knowledge, it was.

Q. I will ask you again, sir. Did you have knowledge on all occasions that this was true?

A. We expect and instruct our salesmen that they do not hold estimates.

Q. I understand that is a policy of your company, sir. I am asking now for a specific instance when information was given to a competitor, and I am asking whether in each of these instances you knew that the customer had that quotation in his possession.

A. I could not say I knew it definitely, no.

Q. On the occasion, sir, when you have requested from a competitor the price which he was then charging a specific customer for corrugated containers in the Southeast United States, what information did you request?

A. I requested what price they had charged.
[Tr. A-532] Q. What was the information that you desired?

A. The price which they had charged for a specific item or items.

Q. Was it the most recent price that you desired?

A. The most recent price was the one that I would ask for, yes.

Q. When you gave this information, did you give it in terms of an end price on all occasions?

A. No.

Q. What did you do, sir?

A. It could have been a level as well as end price.

Q. Did you give one more than the other?

A. That would be difficult to answer. I shouldn't think it would be one so much greater than the other, no.

[Tr. A-533] Q. Mr. Orcutt, that is a copy of the Complaint filed in this action which you have before you. I would like to [Tr. A-534] go through the list of Defendants which appears on the first page of the complaint and ask for the names of those individuals to whom you have given the price which you were charging a specific customer or from whom you received a price which they were charging a specific customer for corrugated containers in the Southeastern United States during the period from October, 1957 to October, 1963.

A. All right.

Q. Container Corporation of America?

A. Mr. Evans.

Q. Are there any others?

A. I don't recall any others.

Q. Albemarle Paper Manufacturing Company?

A. Mr. Dozier and Mr. Bagley.

Q. Carolina Container Company?

A. Mr. Holbrook and Mr. Ingram.

Q. Continental Can Company, Inc.?

A. Mr. Beams and Mr. Johnson and Mr. Groner.

Q. Crown Zellerbach Corporation?

A. Mr. Clark.

Q. Dixie Container Corporation?

A. Mr. Mitchell, Mr. Johnson.

Q. Dixie Container Corporation of North Carolina?

A. No.

Q. Do you know Mr. Schwind?

[Tr. A-535] A. No, I do not.

Q. Inland Container Corporation?

A. Mr. Roberts.

Q. International Paper Company?

A. Mr. Ennis and Mr. Reid.

Q. The Mead Corporation?

A. Mr. Wainscott.

Q. Miller Container Corporation?

A. Mr. Noftsinger. Mr. Kyle.

Q. Owens-Illinois Glass Company?

A. Mr. Rosenbaum.

Q. St. Joe Paper Company?

A. No.

Q. St. Regis Paper Company?

A. No.

Q. Tri-State Container Corporation?

A. Mr. McDonald.

Q. Union Bag-Camp Paper Corporation?

Q. Mr. Faulkner.

Q. Weyerhaeuser Company?

A. Mr. Elliott.

Q. Have you on any occasion by telephone, received without requesting it, the price which a competitor was then charging a particular customer?

[Tr. A-536] A. I do not recall any such conversation.

Q. During this period when you were making or receiving these calls under what circumstances would you make such a call?

A. It might have been under one or more circumstances. It might have been to confirm information which I had or it may have been to seek market information which I did not have.

Q. Was it of any benefit to you, sir, to give this information to a competitor when he called you?

A. I don't think it was any particular benefit that I gave him information, no.

Q. What was your reason for giving this information, sir?

A. If I didn't give it at times I might want to receive such information. So I gave it.

Q. Would you clarify that?

Would you read back the answer, please?

(The answer referred to was read by the reporter.)

The Witness: What I said or what I meant to say was that if I gave it I would hope that if I were seeking such information that it would be given me.

By Mr. Sliney:

Q. If you did not give it?

A. I have no way of telling what might happen.

[Tr. A-722]

Friday, March 13, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Weyerhaeuser Company: Fred B. Helms, Daniel C. Smith.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Carolina Container Company, St. Regis Paper Company and the Waterbury Corrugated Container Company.

DEPOSITION OF IVAN D. WOOD

(PX-36)

[Tr. A-724] Q. Mr. Wood, with whom are you presently employed?

A. Weyerhaeuser Company, Tacoma, Washington.

Q. What is your present position?

A. I am Vice President or Division Vice President and Manager of the Shipping Container Division.

Q. How long have you been in that position, sir?

A. Since June of 1962.

Q. Before that, what was your position?

A. I was Southern Regional Vice President, Weyerhaeuser Company, Container and Carton Divisions.

[Tr. A-725] Q. For approximately how long?

A. Eighteen months.

Q. That would go back to about the first of the year 1961, is that about right?

A. Yes, sir.

Q. Now, were you with Weyerhaeuser prior to that period?

A. Yes, sir.

Q. In what capacity?

A. I was Executive Vice President of Weyerhaeuser Southern Corporation, a wholly owned subsidiary, from June 20, 1959, until December 31 or the 1st of 1963.

Q. Before that?

A. I was Vice President in Charge of Sales of the Old Dominion Box Company from December of 1954 until June 1959.

Q. Mr. Wood, in the complaint which was filed in this case, we have defined the Southeastern United States as including the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, and Kentucky.

Now, in your present position what would be your responsibilities and duties insofar as that particular area is concerned?

A. You mean my position as of this moment?

Q. Yes.

A. We have four regional managers who report directly [Tr. A-726] to me. There is a regional manager responsible for the operations in these areas, these states.

Q. They report to you?

A. Yes, sir.

Q. Now, in my questions, unless I specify otherwise, they will be confined to the period since June 1959 when you left Old Dominion and became connected with Weyerhaeuser Corporation.

A. All right, sir.

Q. During the period prior to June 1962 when you took your present position, I believe you stated you were Southern Regional Vice President, is that right?

A. Yes, sir.

Q. Now, what were your responsibilities in that position, particularly as to pricing of containers in the Southeastern United States?

A. I was responsible to see that our products were priced at a profit and so delegated the responsibility to the resident managers in charge of our plants in this area.

[Tr. A-727] Q. Mr. Wood, during this period from June 1959 until last October did the sales managers of your—strike that. During this period from June 1959 to October 1963 were your sales managers at times requested to supply price information regarding specific customers by competitors?

A. Yes, sir.

Q. To the best of your knowledge when receiving these requests did they supply the information?

A. Not all the time but I would say generally, yes.

Q. On those occasions when they did supply the information would you tell us where, within your own organization they obtained the information?

A. I could not answer for them but I can generalize. We have a card index system which shows the account, the box number, and the end price. This is in one section. Then we also have folders as to how that price was derived. And whether they will use it or the end price I couldn't answer.

Q. Now as to you personally during this period when [Tr. A-728] you were with Weyerhaeuser and let us say for this purpose prior to the time you took your present position, in other words, this would be during the period of June 1959 to January 1, 1961, were you personally requested by competitors at times to supply price information?

A. At times, yes, sir.

Q. When you received these requests did you supply the information requested?

A. Yes, sir.

Q. Now confining ourselves to you personally how did you obtain this information?

A. We had a rather unusual geographical set up. My office was at that time approximately six or seven hundred yards from the shipping container manufacturing facilities and their general offices. If I was called, I would call over there and ask them to take the card file and give me the end price. I would not go over to see it, to pull it out, myself.

Q. That would be as to information which was available within the city, is that true?

A. Yes, sir.

Q. Did you ever receive any calls for information which was possibly available in other plants?

A. No, sir.

Q. Now when you received these requests, Mr. Wood, was [Tr. A-729] the information requested the most recent price for that particular customer?

A. Yes, sir.

Q. Was it confined to a price you had used in an actual sale or would it also include a price where you had merely quoted but possibly had not completed the sale?

A. No, sir, it would be an actual sale.

Q. Upon these occasions did you supply accurate information on all occasions as far as you knew it to be accurate?

A. As far as I knew, yes, sir.

Q. I would ask you, have you personally requested this same type of information from competitors?

A. Infrequently, yes, sir.

Q. Now again referring to defendants other than Weyerhaeuser named in the complaint, I would like to go through these defendants once again and ask that you tell me, as I name each defendant the person or persons with—from whom you have received requests for price information on specific customers or have, yourself, requested that information from them. Is that clear?

A. Yes, sir, it will be a little difficult.

Q. That is also during the period prior to October 14, 1963 and extending back to when you first came with Weyerhaeuser?

[Tr. A-730] A. Yes.

Q. Container Corporation of America?

A. Mr. Colvin.

Q. Albemarle Paper Manufacturing Company?

A. I am not certain.

Q. Carolina Container Company?

A. Mr. Ingram and Mr. Holbrook.

Q. Continental Can Company, Inc.?

A. I am not certain.

Q. Crown Zellerbach Corporation?

A. Gordon Clark.

Q. Dixie Container Corporation and Dixie Container Corporation of North Carolina?

A. This is the period of June—no one.

Q. Inland Container Corporation?

A. Mr. Talbot.

Q. International Paper Company?

A. No one.

Q. The Mead Corporation?

A. No one.

Q. Miller Container Corporation?

A. Mr. Kyle.

Q. Owens-Illinois Glass Company?

A. Mr. Cobb.

Q. And St. Joe Paper Company?

[Tr. A-731] A. No one.

Q. St. Regis Paper Company?

A. No one.

Q. Tri-State Container Corporation?

A. Mr. McDonald.

Q. Union Bag-Camp Paper Corporation?

A. I believe Mr. Butler.

Q. West Virginia Pulp & Paper Company?

A. Alan Holt.

Q. I will ask you this one. I am not sure but what you previously stated you did not know the company. If so, you may just repeat that.

The Waterbury Corrugated Company?

A. No.

Q. Now, Mr. Wood, in connection with the persons you have just identified as having responsibility to, I am not sure I made it clear so that we will repeat or try to make it clear at this time.

On occasions, when you spoke to or contacted the persons you have named, were these occasions when you either requested from them price information as to specific customers or were they occasions when you were requested for such information?

A. A general answer is when I was requested.

Q. I am sorry, I wasn't asking which of the two. What [Tr. A-732] I was asking was, were these contacts in connection with the giving or receiving of price information on specific customers.

A. Yes, sir.

Q. On this occasion, was the price given your most recent price?

A. Yes, sir.

Q. On occasions when you received the information, was the information requested the most recent price?

A. Yes, sir.

Q. Just for clarification again, I think when we were getting these names, you indicated some uncertainty and I am not sure whether your uncertainty was as to whether you had made such calls or the names of the individuals. Will you clarify that?

A. Names of the individuals because I have been away from here for sometime and, of course, the personnel change. For example, I mentioned Owens-Illinois, Mr.

Cobb. I don't think Mr. Cobb is in this area now. You do have a line between June of 1959 and—

Q. Yes. Mr. Wood, going back to the period from January 1, 1955 until June of 1959 when, I believe, you testified you were with Old Dominion Box Company?

A. Yes, sir.

Q. Did you have occasion at any time to give or receive [Tr. A-733] price information from competitors as to specific customers?

A. On a limited basis, yes, sir.

A. The first manual that was used by my employer was a manual that was devised within the organization, commonly known as the Old Dominion Manual.

Q. Do you know the date or approximate date when that particular manual first came into being, was first published?

A. In the last half of 1956.

Q. Do you know any of the circumstances about its first being published or coming into being? Do you know how it came to be published?

A. Yes, I know some of the details.

Q. Maybe I can be a little more specific. Was the manual prepared by Old Dominion Box Company? After its preparation, do you know to what class of people meaning either customers, competitors, others, the manual was sent to?

A. Yes, sir.

Q. Which type?

A. It was given general distribution in the trade and quite wide distribution among the customers.

[Tr. A-734] Q. From your own knowledge, do you know if Old Dominion was able to adhere to that practice of selling strictly on the manual?

A. I can tell you book, chapter and verse. As a result of this policy, Old Dominion lost the majority of their so-called medium size accounts. If I can explain, the manual became an instrument to discount from in large volume accounts. When it first went into effect, I had the order department send me a list, daily, of what this one-price

policy was doing to our product mix. Half of the prices came down and half of them went up.

In the main, I think that the more prices, because heretofore, I didn't go into it because I don't think it is pertinent but heretofore there was no pattern to the market. We would been having a price of "X" number of dollars for a certain box here and something else for something over here.

[Tr. A-735] As many prices went down as went up. As a result of it, naturally, this price was attractive to small lot customers. Old Dominion within three months became what I would phrase as a job-lot company and also had sales decreased on a comparable basis from 55 to 56 to about 25 percent.

Q. Did Old Dominion, within this period so far as you know, make any change for adjustment to take care of that situation within their own company?

A. I don't understand the question.

Q. If I understood your previous answer correctly, you indicated that rigid adherence to the manual was not, the policy of rigid adherence to the manual was unsuccessful; is that correct?

A. Yes, sir.

Q. Was any adjustment then made to remedy that?

A. No, sir. We stuck to the one price, Mr. Dillard's one price.

Q. Within your own knowledge, would you have any way of knowing whether the trade generally, that is the competition stuck to the same price?

A. I would say they did not. I would say this Old Dominion Manual became a vehicle to discount from.

[Tr. A-261]

Friday, March 13, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Weyerhaeuser Company: Fred B. Helms, Daniel C. Smith.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Carolina Container Company, St. Regis Paper Company and the Waterbury Corrugated Container Company.

DEPOSITION OF GEORGE W. ELLIOTT, JR.

(PX-15)

[Tr. A-263] Q. Mr. Elliott, with whom are you presently employed?

A. Weyerhaeuser Company.

Q. For how long have you been with Weyerhaeuser, confining ourselves to the period since January 1, 1955?

A. Since July 19, 1959.

Q. Will you give me that date again?

A. I believe it is June or July—June 1959.

Q. What is your present position, sir?

A. I am resident manager of the Charlotte plant.

Q. How long have you been in that position?

A. Since approximately December 19, 1963.

Q. What was your position just prior to that?

A. Sales manager.

Mr. Helms: By way of clarification, I question whether he was sales manager of that particular plant. He [Tr. A-264] assumes that—

The Witness: Sales Manager of the Charlotte plant.

By Mr. Freeze:

Q. For how long, sir?

A. I believe it was the middle of August, 1961.

Q. And before that during the period June 1959 until August 1961, what was your position?

A. I was Sales Representative for the Charlotte plant.

Q. Now during the period when you were sales manager at the Charlotte plant and also resident manager, who had pricing responsibility?

A. I did.

Q. Did you have pricing responsibility in both of those jobs? You testified, I believe, that part of the period you were sales manager and later you were resident manager.

A. I didn't become resident manager until December 1963.

Q. While you were sales manager, did you have pricing responsibility?

A. Yes, sir.

Q. Did you actually determine the final price to be quoted to customers?

A. On, I would say, 75 percent of the time, yes. The [Tr. A-265] rest of the time on specific occasions I would consult the resident manager and we would, of course, make the decision together.

Q. Did you during that period use a pricing manual in computing prices?

A. Yes, sir.

Q. Which manual did you use or which manuals did you use during that period?

A. To my knowledge the manual that we are now using is our own, Weyerhaeuser Manual.

Q. Did you ever use any other manuals during this period?

A. No, sir.

Q. Are you familiar with other manuals?

A. No, sir.

Q. Mr. Elliott, from your own experience during this

period, did most of your customers buy from several suppliers at the same time or confine their purchases to a single supplier?

A. I would say several suppliers.

Q. Clarifying that a little bit, if a customer desired to purchase a box, one particular box, was it your experience [Tr. A-266] that he would normally buy that particular box from several suppliers or from a single supplier?

A. I would say the greatest percentage would be from several suppliers.

Q. During this period from August 1961 to October 1963 did you personally receive requests from competitors for price information regarding prices to specific customers?

A. Yes, sir.

Q. Upon those occasions when you received these requests did you furnish the information requested?

A. Yes, sir.

Q. Would you tell us, please, how you obtained the information, how you assembled the information in response to these requests?

A. We have a file on all our orders and specifications and I would go to this file and get this information and pass it on to the person who was calling.

Q. Was the information requested the most recent price at which you had sold a specific customer?

A. Yes, sir.

Q. Did the information you furnished include situations where you had merely quoted as distinguished from a completed sale? If that is not clear I will rephrase it.

[Tr. A-267] A. If you will.

Q. All right. On any of these occasions when you furnished information in response to a request was any of the information a price which you had quoted to a customer as distinguished from a price at which you had actually sold?

A. Which we sold.

Q. Now did you on all occasions, to the best of your present recollection, furnish truthful and accurate information in response to these requests?

A. Yes.

Q. Now have you also personally requested this type of information from your competitors?

A. Yes, sir.

Q. Referring again to the companies other than Weyerhaeuser Company which are named in the complaint in this action I would like to go through these and ask you as to each company, the names of the person or persons with whom you either gave—to whom you gave or from whom you received price information on specific customers.

Is that clear?

A. Yes, sir.

Q. Container Corporation of America?

A. Mr. Colvin and Mr. Clay.

Q. Albemarle Paper Manufacturing Company, possibly known to you as Richmond Container Company?

[Tr. A-268] A. I believe that gentleman's name is Dozier or something like that.

Q. Carolina Container Company?

A. Mr. Holbrook and Mr. Webster.

Q. Continental Can Company?

A. I am not sure of this, whether Mr. Beams was at that time during this period with Continental Can but I would like to go ahead and put this in. Mr. Beams, Mr. Johnson, and Mr. Roy Taylor.

Q. Crown Zellerbach Corporation?

A. Mr. Gordon Clark and Mr. Lee Ross.

Q. Dixie Container Corporation and/or Dixie Container Corporation of North Carolina?

A. Mrs. Gatewood, Mr. Schwind.

Q. Inland Container Corporation?

A. Mr. Roberts and Ed Hogan.

Q. Is that Hogan, H-o-g-a-n?

A. I believe that is the way he spells it.

Q. International Paper Company?

A. Mr. Hugh Reid. I believe that is all.

Q. And the Mead Corporation?

A. Mr. Bob Wainscott and Mr. Dave Bloom.

Q. Miller Container Corporation?

A. Mr. Kyle.

Q. Owens-Illinois Glass Company?

[Tr. A-269] A. Mr. Brittain and Mr. Rosenbaum.

Q. St. Joe Paper Company?

A. None.

Q. St. Regis Paper Company?

A. Petree and Mr. Diggs.

Q. Tri-State Container Corporation?

A. Mr. McDonald.

Q. Union Bag-Camp Paper Corporation?

A. Mr. Faulkner, Mr. Pritchett, Mr. Grimes and Mr. Wulff.

Q. West Virginia Pulp & Paper Company?

A. Mr. Holt.

Q. The Waterbury Corrugated Container Company or Blue Ridge Containers?

A. Mr. Reynolds.

Q. Now, Mr. Elliott, during this period from August 1961 until October 1963 did you at any time attend meetings with your competitors or any meetings at which your competitors were present where there was any discussion of prices?

A. No, sir. Where there was any discussion of prices?

Q. Prices in any way?

A. No, sir.

[Tr. A-538]

Thursday, March 12, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, West Virginia Pulp and Paper Company: Armistead W. Sapp, James Dale Thom.

Other defense counsel appeared as of record with the exception of the following companies, as stated by Mr. McNeill Smith: Miller Container Corporation; Albemarle Paper Manufacturing Company; and Carolina Container Company.

DEPOSITION OF JOSEPH T. PIEMONTE

(PX-27)

[Tr. A-541] Q. Would you tell us about any meetings you may have attended?

A. Well, almost every Fibre Box meeting concerned itself with pricing. Charts were presented, figures, statistics. I don't know of any meetings of Fibre Box Associations which didn't follow that same pattern in the presentation of the area or zone statistics.

[Tr. A-542] Q. In addition to Fibre Box meetings, were there any other meetings?

A. I can recall one other such meeting. I had reference to it when I was sitting here while Mr. Beams spoke. My recollection of that particular event is that this was a meeting in Raleigh—at the Raleigh Hotel in Richmond, Mr. Orcutt indicated that a number of, he had received a number of communications questioning information received from a customer with regard to our prices there, in view of the fact that I believe during this period there was a price increase announced in the press and the question as I recall that Mr. Orcutt indicated to me was the papers say this but there is this information coming from the customer.

What does this mean as far as your company's position is concerned? It seemed to me this was not an overly complicated question. This is what our company had done. He

sort of indicated he would like all these people who were asking these questions to be told at one time. I said certainly, why not. This is the meeting that was referred to. Basically, we indicated yes, the customer was, in effect, was correct and this is what had been done.

Q. Would you fix for us the best you can, Mr. Piemonte, the approximate date of that meeting?

A. Well, I have one way I think I can narrow it down. It was the first time, I believe, that I had seen most of [Tr. A-543] these, met most of these fellows in that area that were competitors. So, I would say it was in the area of 1959. I had been there in the spring of 1959. That is the best of my recollection.

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[Tr. A-694]

Tuesday, March 10, 1964.

APPEARANCES:

For the Plaintiff: Lewis Bernstein, Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, Crown Zellerbach Corporation: Howard T. Milman, Philip S. Ehrlich, Jr., Charles T. Hagan, Jr.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF J. P. TARANTINO, JR.

(PX-34)

[Tr. A-700] Q. Now, when you received such a request, where did you obtain the information that had been requested?

A. From the manager of the division in which the request had reference to.

Q. On these occasions, did the request come direct to you from a competitor or was it forwarded by one of your managers?

A. Well, sir, let me answer it this way. In my tenure as regional manager, I don't think I have been asked, that I can recall now, where I was asked for any specific price level in any account because that information could be obtained from my managers in the various divisions.

Q. I believe, and you correct me if I am wrong, it was your testimony that you have received such requests, possibly infrequently. Am I quoting you right?

A. No, sir, I can't recall anyone asking me for a level. I think maybe I may have made a call for a level.

Q. On such occasions when you requested such information did you request price information on a specific job from a competitor?

A. Yes, sir.

Q. Now, on these occasions, exactly what information did you request, Mr. Tarantino?

A. I requested the last market level in that account. To elaborate just a second, there was some conflicting [Tr.

A-701] information as to the price in that particular account and I requested the level in that particular account and the past market in that particular account.

By Mr. Freeze:

Q. From whom did you request this information?

A. Mr. Talbot of Inland Container Corporation.

Q. From whom else did you request?

A. Whom else did I request information from?

Q. I withdraw that. Going back to Mr. Talbot, regarding what account did you request this information of Mr. Talbot?

A. Snively Groves, Winter Haven, Florida.

Q. Would you mind spelling it first?

A. S-n-i-v-e-l-y.

Q. Where are they located?

A. At Winter Haven, Florida.

Q. Exactly what type of information did you request?

A. The information was misleading from the purchasing agent and the receiving clerk as to the price in the account, and I contacted Mr. Talbot to find out if there had been any change in the market.

Q. Did he give you the information?

A. He notified me that there was no change.

Q. What did you understand that to mean, by no change?

A. It meant that the purchasing agent and the buyer [Tr. A-702] was trying to get a better price.

[Tr. A-703] Q. Mr. Tarantino, what, if anything, did you have to do with the preparation of the Gaylord Manual?

A. Very little, sir.

Q. Were you consulted?

[Tr. A-704] A. Yes, I was consulted, sir.

Q. For what type of information were you consulted?

A. As to whether or not it would be a tool of arriving at a formula for a uniform price within the Gaylord organization. Prior to the Gaylord Manual, our prices were all over the lot, we had no particular way of determining what the price was, and the purpose of the Gaylord Manual was to see if we could not get some semblance of pricing within the organization.

Q. What advice did you give when you were consulted?

A. I was against it, sir.

Q. Would you explain that a little bit further?

A. Yes, sir. I was against it, sir, for the simple reason that what happened did happen. The minute we published the Gaylord Manual, we became sitting ducks, and we lost a great volume of business.

Q. Would you explain that?

A. Yes. We came out and it was a very definite policy that we would adhere to this particular manual throughout the United States. No one had any authority to reduce prices.

Q. When was that policy which you have just outlined promulgated?

A. This was at the time the Gaylord Manual was issued, in 1956.

Q. Was that policy relaxed or changed?

[Tr. A-705] A. We had to, sir, or lose all of our business.

Q. When was it changed?

A. I can't recall the exact time, sir. I do know in the State of Florida I lost about 20 years of business. I would say it lasted for a period of months. I can't tell you exactly, Mr. Freeze, how long it was. I can't recall the exact time that we came back into the market in a competitive way, sir.

Q. How was it changed? Was the formula changed?

A. No; the formula was not changed. We just went out and cut our competition and got the business the same way we lost it.

[Tr. A-4]

Friday, March 6, 1964.

APPEARANCES:

For the Plaintiff: Wharey M. Freeze, John L. Sliney, Antitrust Division, Department of Justice.

For the Defendant, International Paper Company: Henry L. King, Davis Polk, Byron E. Kabot, Arthur Cooke.

Other defense counsel appeared as of record, as stated by Mr. McNeill Smith.

DEPOSITION OF EDWARD AGAR

(PX-4)

[Tr. A-10] Q. Now, in computing a price for a custom-made container do you use a pricing manual or do your subordinates use pricing manuals in computing prices?

A. They do a number of things in computing the price that is quoted to a customer. That is one phase of it, Mr. Freeze, yes. They use an estimating manual.

Q. What is the name of the manual used?

A. We have no name for it other than an estimating manual. It is a manual that is distributed to the estimating departments in our plant.

[Tr. A-11] Q. Who prepared the manual?

A. It is prepared by cost personnel in our headquarters office in New York.

Q. Is this a cost manual or a price manual, would you say?

A. A combination of both, Mr. Freeze. Currently, we are in the process of changing this system. We are going entirely to a cost method. The manual which has been used heretofore is based on cost of operations, the cost of the materials that are fabricated into containers, including a reasonable margin of profit in the cost of the board.

Q. Mr. Agar, my questions will refer to the period from January 1, 1955 to October 14, 1963. Now, during that period—

Mr. King: And also to the Southeast?

Mr. Freeze: Also to the Southeast.

By Mr. Freeze:

Q. Now, during that period; Mr. Agar, did your personnel have in their possession any manuals not prepared by your own company?

A. Yes, sir.

Q. Would you designate what those manuals were either by name or however you referred to them?

A. At one time, Mr. Freeze, we received from our headquarters office copies of the Gaylord Manual that I understand our people up there had received from some of our customers.

[Tr. A-12] Q. Mr. Agar, confining ourselves to the period, 1955 to 1963, would you tell us what years during that period you had in your possession a Gaylord Manual?

A. That I had in my possession; is that your question?

[Tr. A-13] Q. That was in the possession of your personnel charged with pricing, insofar as you know.

A. Surely, Mr. Freeze, they had them at the time I made reference to and that would be six years ago. I don't know whether they still have them. If they don't still have them, I don't know at what period of time they did have them.

Q. Now, will you tell us, please, in your own words, what use was made of the Gaylord Manual by your personnel?

A. Mr. Freeze, when we in our organization would prepare a price, we would first of all go through the mechanics of preparing this estimate sheet. That is a mechanical procedure. You don't want me to go into detail on that, do you?

Q. I would appreciate it if you would.

A. The customer would write our company for a price or our salesman or contact with the customer may personally receive a request for a price. These specifications are given to our estimating department. These specifications are then placed on an estimate sheet and the mechanics of this is from a formula that is in this estimating book, we determine the square footage in each one of the items that is to be priced.

We then have series of dollar and cent factors that represent a given grade of board on the basis of price per thousand square feet. The decimal or this factor is multiplied by the square feet in the container resulting in the

board, the cost of the board or this estimated price of the board per [Tr. A-14] thousand units.

To this is added a series of fabricating materials, the materials necessary to seal the manufacturer's joint, ink to print the container, upkeep of printing dies, any special features that may be incorporated in this particular container such as die cutting or ventilating, the transportation cost from our plant to the customer's plant, the cost of the bundling, wrapping the bundles if it is necessary to wrap the bundles.

That is a concise description of that procedure. The estimate is then presented, along with the customer's inquiry, to the responsible party to name the price that will be quoted to the customer. It is then this individual's responsibility to consider a multitude of factors. He should consider whether or not this particular item is one that is suited to the equipment that we have in the plant.

If we have equipment that is suitable in the plant, he should consider, then, whether this equipment is filled to capacity or whether it is necessary or whether we are looking for extra volume to fill it to capacity.

He would consider the die cut items, as to whether or not we have a cutting die or whether it would be necessary to purchase a cutting die. If it were a printed item, he would have to consider whether or not we had printed dies in good enough shape to print the order in good condition. [Tr. A-15] If not, he would have to consider the cost of the die. He would want to consider the location of our plant in relation to the servicing of the account, whether or not it would be in an area that is regularly serviced by one of our sales personnel or if it was going to be an added expense to service this particular account.

He would consider whether the shipment would be full carload or whether it is less than carload, whether it is a desirable product mix to the rest of our production. Along with all of these considerations, if there was any reason in this individual's mind, for instance, if the account was sold by Gaylord he might then calculate a price or have it calculated on the basis of that manual that he would have had to get that added aid in helping him make up his mind as to the price he would quote the customer.

Q. On any occasions did personnel under you during this

period to the best of your knowledge contact the personnel of your competitors for any information?

A. I don't know of any specific incident where they did but I am sure they did, Mr. Freeze. They may, again I know of no specific instance, no specific incident, but they may have contacted a competitor to determine a past transaction. If the customer had indicated to them that they were buying the container that we were supplying them at a lower price from this competitor. I would like to qualify [Tr. A-16] that in that this would not have been done any time within the last two years, at least the last two years, maybe a little longer.

Q. Have you personally during this period of time ever obtained price information such as board level, on a specific job for a specific customer?

A. I don't know what you mean by board level, Mr. Freeze.

Q. I will withdraw that. Mr. Agar, have you personally obtained any price information on a specific job for a specific customer from any representative of a competitor?

A. Not in the last two years, I have not.

Q. I am speaking of the period from January 1, 1955 to October 14, 1963 and of course I am confining ourselves to the Southeastern United States as previously defined.

A. That would mean then in my case 1957. I would on infrequent occasions, and again I don't remember a specific incident, but I would on infrequent occasions ask a competitor for a past transaction.

Q. Now you indicated that any such occasions occurred prior to June 1962, is that right?

A. Would you repeat that, please?

Q. I understood your testimony to be that any such contacts with competitors were prior to June 1962. Is that correct, did you state that?

[Tr. A-17] A. I said about two years prior, on that, or maybe a little longer, Mr. Freeze.

Q. Mr. Agar, still confining ourselves to the period 1955 to 1963 and to the Southeastern United States, I would like to read you from the complaint a list of defendants and I would like you to indicate which are your competitors in your estimation in the Southeastern United States and during this period, is that clear?

A. No, sir, it isn't.

Q. I am going to read you a list of the defendants in this action by name and ask you which are your competitors in the Southeastern United States?

A. Will you explain what you mean by a competitor? To what extent would you consider competing, to use the expression competitive?

Q. If there is a distinction I would prefer to have you make the distinction. Let me ask you it this way. Would you indicate the ones you consider active competitors? If there are some that you consider minor will you indicate that as I ask you? Is that clear?

A. Yes, sir.

Q. Container Corporation of America?

A. That is a competitor.

Q. Mr. Agar, I note that you have an occasion to use the present and unfortunately I do, too. But I would like to [Tr. A-18] remind you that of course I am speaking of this period January 1, 1955 to October 14, 1963.

If there have been any changes since then I am not asking about those, is that clear?

A. Yes, and perhaps I can correct the record then, that this Statesville plant that I mentioned began operations in 1962 and I believe June of 1962.

Q. Now, Container Corporation of America, I believe you stated that is a competitor, is that right?

A. Yes, sir.

Q. Albemarle Paper Manufacturing Company?

A. Mr. Freeze, I am not acquainted with that company.

Q. Carolina Container Company?

A. Yes, they are a competitor.

Q. Going back to the Albemarle Paper Manufacturing Company for a moment, would the name Richmond Container Company have any significance to you?

A. I have heard of the Richmond Container Company, yes.

Q. Would they be a competitor?

A. I don't know but I would think so, Mr. Freeze.

Q. Now Continental Can Company?

A. Yes, sir.

Q. Crown Zellerbach Corporation?

A. Yes.

Q. Dixie Container Corporation and Dixie Container [Tr. A-19] Corporation of North Carolina?

A. I don't know that company either, Mr. Freeze. But if they are in this area I would say yes, they must be a competitor.

Q. Inland Container Corporation?

A. Yes, sir, they are.

Q. International Paper Company?

Mr. King: That is us.

By Mr. Freeze:

Q. The Mead Corporation?

A. Yes.

Q. Miller Container Corporation?

A. There, again, I don't know the company, Mr. Freeze, but if they are in the area I would say they must be a competitor.

Q. Owens-Illinois Glass Company?

A. Yes.

Q. St. Joe Paper Company?

A. Yes.

Q. St. Regis Paper Company?

A. Yes.

Q. Tri-State Container Corporation of Elizabethton, Tennessee, if that helps any?

A. I don't know.

Q. West Virginia Pulp & Paper Company?

[Tr. A-20] A. Yes.

Q. Weyerhaeuser Company?

A. Yes.

Q. The Waterbury Corrugated Container Company?

A. I never heard of it.

Mr. Kenney: Mr. Freeze, I don't like to be left out of this. You didn't ask about Union Bag-Camp.

By Mr. Freeze:

Q. Union Bag-Camp Paper Corporation?

A. Yes.

Q. I would like to ask you, Mr. Agar, if you are familiar with a concern known as the Old Dominion Box Company?

A. What was the question?

Q. Have you ever heard of a concern known as the Old Dominion Box Company?

A. I have heard of it, yes.

Q. Would you know from your own recollection whether your company has competed with that company during the period 1955 through 1963?

A. I don't know, Mr. Freeze.

Q. Now will you tell us please, Mr. Agar, in connection with giving or receiving any price information from competitors which persons in your own organization would normally do that, or did normally do that for the period which you state?

A. None of them would have done it in the last two years [Tr. A-21] or so.

Q. Prior to that time?

A. It would have been the plant managers and, as I indicated before, on infrequent occasions I would have performed that function, myself.

Q. Now, Mr. Agar, I would like to go through the same list of defendants named in the complaint and ask you to indicate, as I read each one, those persons, if any, with whom you have given or from whom you have received any price information during the period 1955 to 1963 in reference to prices on specific jobs. First, is that clear? Is my question clear?

A. I would like you to read it again.

Q. I am going to list to you the same list of defendants in this action that I read to you before. What I would like you to do is to indicate any persons with each one of these companies with whom you have given or received any price information on a specific job during the period of 1955 to 1963 in the Southeastern United States. Is that clear?

A. May I make a statement?

Q. Yes.

A. I don't remember any particular incidents at all.

Q. I am not asking for incidents. I am asking for persons you contacted.

A. I don't remember any persons but I will be glad to [Tr. A-22] answer you. I have not done it for over two years and it was infrequent. This is only a small part of my responsibility.

Q. You would not be able to remember any persons with the companies?

A. I would be glad to try but I don't think so.

Q. I will run down the names anyway. Container Corporation of America?

Mr. King: Are you asking for names of individuals in that company?

Mr. Freeze: Yes.

The Witness: I would know people in that company but that is not your question, is it?

By Mr. Freeze:

Q. Do you recall any instance in which you have given or received any price information during this period?

A. I remember no specific incident.

Q. Albemarle Manufacturing Company or Richmond Container Company?

A. None to my knowledge.

Q. Carolina Container Company?

A. I don't remember such an incident.

Q. Continental Can Company?

A. I don't remember any such incident.

Q. Crown Zellerbach Corporation?

A. Again, I don't remember any specific incident.

[Tr. A-23] Q. Dixie Container Corporation or Dixie Container Corporation of North Carolina?

A. I don't know that company at all, Mr. Freeze.

Q. Inland Container Corporation?

A. Again, I remember no specific incident.

Q. The Mead Corporation?

A. The same answer, please.

Q. Miller Container Corporation?

A. I don't know them.

Q. Owens-Illinois Glass Company?

A. I remember no specific incident.

Q. St. Joe Paper Company?

A. The same answer.

.

Q. Mr. Agar, I would like to ask you, please, if you recall any meetings you have attended at which personnel employed by your competitors were present.

A. Mr. Freeze, in the last couple of years, I think I have

been at possibly one or possibly two Fibre Box meetings. Prior to that time, I attended a little more frequently and there were the same competitors present, of course at such Fibre Box meetings.

Q. Do you recall any meetings other than Trade Association meetings?

A. Well, there is a corrugated container institute [Tr. A-24] located in Florida for the development of containers, the conversion of existing packages to corrugated for shipment of fresh fruit and produce and I have attended some of those meetings but not recently.

Q. Do you recall any meetings, Mr. Agar, when you have had any discussions with representatives of your competitors regarding pricing?

A. Would you say that one again please?

Q. Yes. Do you recall any meetings you have attended at which there were representatives of your competitors present at which there was discussion of prices?

A. Well, Mr. Freeze, I don't remember specifically, but I wouldn't doubt but that at some one of these meetings that prices were discussed in a general sense.

Q. Have there been any occasions when you have discussed with a competitor a price on a specific job at any of these meetings?

A. Of course, I wouldn't have the last two years and again I don't remember specifically, it is possible that I did, again, it is possible that I did not.

Q. Mr. Agar, have you ever heard of a manual known as the Old Dominion Manual?

A. I have heard of it.

Q. To the best of your knowledge, has a copy of that manual ever been in the possession of your own personnel? [Tr. A-25] A. Not to my knowledge.

Q. You previously made reference to the Gaylord Manual. Is that the only manual, to the best of your recollection, that has been in the possession of you or your subordinate other than your own manual?

A. It is, to the best of my knowledge, Mr. Freeze, yes.

Q. Now, Mr. Agar, was it your testimony that during the period of 1955 through 1963, there were occasions when you personally had given or received a price from a competitor although you cannot, maybe, remember a specific instance?

Was that your testimony and I will repeat that if you did not understand.

A. I understood it but did you mean to include on a past transaction?

Q. Any giving or receiving—

A. My testimony was that I have done that infrequently prior to two years ago, on the basis of a past transaction.

Q. When you were asked for such price information, where did you obtain that information within your own company to supply?

A. I would have to get it from the plant manager.

Q. You would not have files of your own which would contain that information?

A. No, sir.

Q. How did you get it from the plant manager? Did you [Tr. A-26] have to call him up by phone?

A. Yes, sir.

Q. Now, the information that would be supplied would be the most recent price, would it? Would it be the most recent price at which you had sold?

A. Our last transaction, yes, sir.

Q. I would like to ask you if, during this period, you had quoted on a job but for some reason, perhaps, had not made the sale, would you still supply this information upon request?

A. Not to belabor the point we would not have done it at all in the last two years. Prior to that time and I would think about six years ago, we were instructed by our company counsel to discuss only past transactions. It was my understanding, at that time, that a past transaction was the offer of a supplier and the acceptance of a customer and once that was done it was a completed transaction and if it was not in that status and during this period of time, we would not have given the information.

Q. Speaking from your own personal experience, Mr. Agar, when such a request for information was made of you, did you supply accurate information to the competitor requesting it?

A. This was infrequent, Mr. Freeze, but yes, we did give accurate information.

Q. Is it your testimony that at times you did request this

type of information from your competitors? Is that clear? [Tr. A-27] A. It was clear but I didn't get the first part.

Q. I am just giving the reverse situation. I merely ask, is it your testimony that you did at times request and receive from competitors price information on specific jobs?

A. From a past transaction, yes, sir, that is right.

FOR DEFENDANTS:

Q. Now, speaking of the Southeastern territory, can you tell us how much change there is from year to year in your accounts? Is there a big fluctuation, not in number of accounts but in the different accounts or is it pretty much constant?

A. You have reference to the industry or to our company?

Q. Your company.

A. Fortunately for me, Mr. Freeze, our sales are greater today than they were several years ago primarily due to the fact that we have had added facility in my area prior to ten years ago.

Q. Mr. Agar, I was not asking whether your business was on the increase or whether you were picking up new customers. I was merely asking in general, is there a fluctuation in customers from year to year, names of customers, or is it fairly constant?

A. Certainly, it fluctuates. We have a customer today that may be bankrupt next year or we may lose him to some new competitor. By the same token, there may be a new industry in [Tr. A-28] our area and we may be successful in listing that as a new account. We may also be successful in taking an account away from a competitor. We may lose one to a competitor. But the frequency, I could not estimate that. I would say we have had customers that we have had on our customer lists since 1927. Some are brand new.

Q. Mr. Agar, I would like to ask you, to the best of your knowledge in this industry, as known to you in your own company operations, do most of the customers buy from several companies at the same time or inclined to give their business to one company?

A. They buy, generally speaking, from my experience, from more than one supplier.

Q. Mr. Agar, before the break, you made reference to a change in policy by your company in connection with giving or receiving price information on specific jobs. Would you tell us, please, were your competitors notified of this change?

A. I don't know.

Q. How did you effect the change in your own operations?

A. If I were to receive—may I go back and tell you what the change was? I think that would be helpful.

Q. Please do.

A. I was notified by one of my superiors approximately [Tr. A-29] two years ago or, I would say, maybe a little longer than that, that we were no longer to talk to any of our competitors about any prices.

Q. Do you recall the name of the superior who so informed you?

A. Yes. It was Mr. W. S. Snyder.

Q. What was his position with the company at that time?

A. He was a Vice President.

Q. Would that be a Vice President specifically connected with container operations?

A. He was in charge of the container operations, yes.

Q. How was this communicated to you, by letter or personally?

A. By telephone, Mr. Freeze.

Q. Was any reason given you by him?

A. I don't remember exactly the way this message was given to me, but I recall that there was a question in the minds of the Department of Justice as to the legality of discussing past transactions with competitors, and his instructions to me were, I believe, based on that.

Q. Now, Mr. Agar, under what circumstances did you personally make these requests for information rather than your plant managers make the request?

A. Well, Mr. Freeze, I don't remember a specific situation. I would suppose that some one of our sales people [Tr. A-30] had been given information by a customer that

our price was too high and that we must meet a competitive price in order to maintain our position. For what reason I don't know, but a plant manager may have related this to me, and it may be that on the basis of that that I would have called a competitor to verify this information we had received from the customer.

Q. I will ask you again, under what circumstances, Mr. Agar, would you have any contacts with your competitors with any reference to specific jobs rather than having this done by your plant managers?

Mr. King: I believe he just answered the question, but I don't mind his re-stating it.

The Witness: No. I don't mind re-stating it. I thought I had answered the question. I intended to answer the question.

By Mr. Freeze:

Q. Will you answer it again?

A. I will. I don't remember specifically any instance, but I would think that where this would happen, and this, remember, has not happened in the last couple of years, but I would think that where it happened would be a situation where a customer had reported to one of our sales people that our price was no longer competitive, that they were able to buy [Tr. A-31] containers cheaper from a competitor and that it would be necessary for us to become competitive to retain our business.

Possibly the plant manager then talked to me and for some reason that I can't recall I may have approached the competitor, myself.

[Tr. A-32] Q. Now, Mr. Agar, I believe you stated that the information which you would furnish a competitor or did furnish a competitor upon request was the most recent price at which you had sold the specific customer mentioned, is that correct?

A. Yes.

Q. Now then—

Now when you received this information from a com-

petitor did you ask the competitor if an actual sale had been consummated?

[Tr. A-33] A. From the time that I referred to, approximately six years ago when our counsel explained to us the type of conversation we were permitted with competition, my question on those occasions would be—this is my impression, I don't remember this exactly—but my impression ~~would be that~~ I have said we were told by X company that we are no longer competitive, that the buying has accomplish from you at a particular price. Would you please verify that this is true?

This is the best I can remember that I would have said that, asked that question.

Q. Were there any instances, Mr. Agar, when you either received this information or gave this information except in response to a request? I will withdraw that.

Were there any occasions when you ever gave this information except on request?

A. Not to my knowledge, Mr. Freeze.

Q. Were any occasions when you received it without having made a request?

A. On rare occasions—I haven't first—yes, I think I have, too—on rare occasions over the past number of years we may have received a price list in the mail that we didn't request and in accordance with our company policy we were to return it to the sender with a letter of transmittal that this particular price list was not requested.

[Tr. A-34] Q. Will you define what you mean by a price list? Would it be a price list for some standard item?

A. Yes, sir.

Q. Which type of containers do you make as your standard?

A. Well, sanitary cans, Mr. Freeze, are a standard type container. Containers for motor oil are standard type container. There are other commodities that are pretty much standard such as egg cases. There are stock boxes, there might possibly be a stock box list.

STIPULATION AS TO CERTAIN PROOF

The plaintiff, United States of America, and the defendants hereinafter named, by their respective attorneys, hereby stipulate and agree solely for the purpose of this proceeding and any appeal therefrom, but not otherwise, that:

(a) Subject to the limitations hereinafter set forth, the Statement of Proof attached hereto as Exhibit I (hereinafter referred to as "Statement") is limited and shall be deemed to constitute as to each defendant a stipulation by such defendant only with respect to its own conduct where the defendants are referred to in the aggregate as, for example, Paragraphs 4 and 5 of said Statement, and otherwise of only those factual matters, occurrences or conduct which are designated therein as relating to or as being the conduct of such designated defendant, and no defendant shall by reason hereof be deemed to have made any stipulation with respect to any factual matters, occurrences or conduct of or pertaining to any other defendant or to have any knowledge thereof; provided that it is

stipulated and agreed by each of the parties solely for the purposes of this action and any appeal therefrom, and not otherwise, that the matters set forth in the Statement shall be deemed proved;

(b) No party shall by reason of this stipulation be deemed to have waived any privilege or agreement as to confidentiality respecting any thing or matter not set forth in the Statement;

(c) No defendant shall by reason of this stipulation be deemed to have waived its right to object to the admission in evidence of all or any part of the Statement, or of the depositions or documents referred to in subparagraph (d) hereof, on any and all grounds;

(d) Nothing herein shall prevent the defendants, or any of them, from introducing additional evidence, whether or not pertaining to the matters set forth in the Statement, in explanation of or supplemental to the matters as set forth therein, and the plaintiff will offer no additional evidence in this action, other than the depositions heretofore taken in this action and the documents listed in Exhibit II, except by way of rebuttal to such additional or supplemental evidence offered by one or more of the defendants;

(e) Nothing herein shall prevent any party hereto from correcting the Statement if typographical, mathematical, or other such error is shown to have been made therein;

(f) This stipulation shall not be filed as or become a part of the record in this cause until the commencement of the trial on the merits and, in case of a settlement of this proceeding without a trial on the merits to Final Judgment, this stipulation shall be void and of no effect;

(g) No party, by entering into this stipulation, shall be deemed to have made any representation or admission as to any of the matters set forth in the Statement for the purpose of any other or different action, suit or proceeding to which any of them may be or hereafter become parties,

regardless of whether such action, suit or proceeding is between the parties hereto, or any of them, or between any one or more of the parties hereto and any other person or persons;

(h) The matters contained in the Statement are limited to the Southeastern United States as defined in the complaint in this action.

Dated: August 12, 1964

(s) LEWIS BERNSTEIN

(s) WHAREY M. FREEZE

(s) JOHN N. SLINEY

(s) WILLIAM H. MURDOCK

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(s) FRED B. HELMS

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Attorneys for Defendant,
Weyerhaeuser Company

EXHIBIT I
STATEMENT OF PROOF

1. For purposes of brevity the defendants may be referred to herein by the following abbreviated names:

Container Corporation of America.....	Container Corporation
Albemarle Paper Manufacturing Company..	Albemarle
Carolina Container Company.....	Carolina
Continental Can Company, Inc.....	Continental
Crown Zellerbach Corporation.....	Crown Zellerbach
Dixie Container Corporation.....	Dixie
Dixie Container Corporation of North Carolina*	Dixie of North Carolina
Inland Container Corporation.....	Inland
International Paper Company.....	International
The Mead Corporation.....	Mead
Miller Container Corporation.....	Miller
Owens-Illinois Glass Company.....	Owens-Illinois
St. Joe Paper Company.....	St. Joe
St. Regis Paper Company.....	St. Regis
Tri-State Container Corporation.....	Tri-State
Union Bag-Camp Paper Corporation.....	Union-Camp
West Virginia Pulp and Paper Company.....	West Virginia
Weyerhaeuser Company	Weyerhaeuser

2. In the trade the following defendants were sometimes known by the following names:

Albemarle, after September 9, 1959 only, as "Richmond," or "Richmond Container";

Container Corporation, after November 15, 1960 only, as "Mengel" and only for its Memphis, Tenn., Nashville, Tenn., Chattanooga, Tenn., Lexington, Ky., Louisville, Ky., and Winston-Salem, N. C. locations;

* Dixie of North Carolina was a controlled subsidiary of Dixie which owned 80% of its capital stock. The officers of the two corporations were identical with the exception of the Assistant Secretary.

Continental, after October 26, 1956 only, as "Gair" or "Robert Gair";

Crown Zellerbach, after November 30, 1955 only, and for its Gaylord corrugated container division only, as "Gaylord", or "Gaylord Container";

Owens-Illinois, after October 4, 1956 only, as "National" or "National Container";

St. Regis, after August 29, 1959 and at its Atlanta, Ga. location only, as "Atlanta Container" or "Atlanta Container Company", and after January 4, 1960 and at its Birmingham, Ala. location only, as "Nifty" or "Nifty Manufacturing Division";

Union-Camp, after December 1, 1959 and at its Jamestown, North Carolina location only, as "Highland" or "Highland Container";

West Virginia, after September 30, 1957 only, as "Hinde & Dauch";

Weyerhaeuser, after May 1, 1957 only, as "Kieckhefer" or "Kieckhefer-Eddy".

Container Corporation acquired a stock interest in Mengel Co. in 1954 and continued to increase its holdings of Mengel common stock, owning approximately 69% by December 1955 and approximately 97% by December of 1959. All of Mengel's preferred stock was retired in April 1956. On November 15, 1960 Mengel Co. was merged into Container Corporation.

Inland acquired ownership and control of the Anderson Box Co., Inc. in December of 1959.

Union-Camp in March of 1959 acquired most of the stock of Highland Container Company of Jamestown, N. C.; in September 1959 it completed its acquisition of 100% of the stock of Highland and on December 1, 1959 Highland was merged into Union-Camp. From March 1959 until it was so merged, the Highland Jamestown plant was controlled by Union-Camp but continued to be operated by Highland management.

West Virginia acquired substantially all of the stock of Hinde & Dauch Paper Company in 1953 and controlled it until it was merged into West Virginia on September 30, 1957.

3. The facts set forth in each of the following paragraphs occurred or existed within the period from January 1, 1955, to October 14, 1963, within the Southeastern United States (which is defined in the complaint as Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, and Kentucky); except that the following defendants were not engaged in the corrugated container business in the Southeastern United States prior to the date set forth opposite their respective names:

Albemarle	September 9, 1959
Continental	October 26, 1956
Crown Zellerbach	November 30, 1955
Dixie of North Carolina	-March 1, 1959
Mead	December 27, 1956
Owens-Illinois	October 4, 1956
St. Regis	October 2, 1958
West Virginia	September 30, 1957 (except through its subsidiary Hinde & Dauch)
Weyerhaeuser	May 1, 1957

4. Each defendant engaged in the manufacturing and selling of corrugated containers in the regular course of its business.

5. Each defendant, in the regular course of its business, has sold and shipped substantial quantities of corrugated containers to customers located in states other than the states in which said corrugated containers were manufactured.

6. Annual dollar sales of corrugated containers for each of the defendants except Albemarle for each year since and including 1961 have been as follows:

Container Corporation in excess of \$28 million;
Carolina in excess of \$5 million;
Continental in excess of \$11 million;
Crown Zellerbach in excess of \$21 million;
Dixie in excess of \$4 million;
Dixie of North Carolina in excess of \$1½ million;
Inland in excess of \$17 million;
International in excess of \$7 million;
Mead in excess of \$19 million;
Miller in excess of \$2 million;
Owens-Illinois in excess of \$15 million;
St. Joe in excess of \$4 million;
St. Regis in excess of \$10 million;
Tri-State in excess of \$6 million;
Union-Camp in excess of \$18 million;
West Virginia in excess of \$10 million;
Weyerhaeuser in excess of \$7 million.

7. Annual dollar sales of corrugated containers for Albemarle since and including the fiscal year ending April 30, 1962, have been in excess of \$2 million.

8. Most of the corrugated containers sold by each of the defendants in the regular course of its business were manufactured by it upon customer order and in accordance with the specifications prepared by or for the particular customer so ordering as to the style, dimensions, weight, strength, color, printing, type of joint, and other physical characteristics, and, unless otherwise expressly designated, whenever corrugated containers are referred to herein they are of the character described in this paragraph.

9. In seeking business for the manufacture and sale of corrugated containers although not necessarily at all times or in all areas or for all purchasers, varying from defendant to defendant:

Container Corporation was in competition with each of the other defendants;

Albemarle was in competition with the following defendants: Container Corporation, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Joe, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

Carolina was in competition with the following defendants: Container Corporation, Albemarle, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Regis, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

Continental was in competition with each of the other defendants;

Crown Zellerbach was in competition with each of the other defendants;

Dixie was in competition with the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Inland, International, Mead, Miller, Owens-Illinois, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

Dixie of North Carolina was in competition with the following defendants: Container Corporation, Carolina, Continental, International, Mead, Owens-Illinois, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

Inland was in competition with each of the other defendants;

International was in competition with each of the other defendants;

Mead was in competition with each of the other defendants;

Miller was in competition with each of the other defendants;

Owens-Illinois was in competition with each of the other defendants;

St. Joe was in competition with the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Inland, International, Mead, Owens-Illinois, St. Regis, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

St. Regis was in competition with the following defendants: Container Corporation, Carolina, Continental, Crown Zellerbach, Inland, International, Mead, Owens-Illinois, St. Joe, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

Tri-State was in competition with the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Regis, Union-Camp, West Virginia and Weyerhaeuser;

Union-Camp was in competition with each of the other defendants;

West Virginia was in competition with each of the other defendants; and

Weyerhaeuser was in competition with each of the other defendants.

10. Most purchasers of corrugated containers generally purchased their containers from two or more of the defendants concurrently.

11. Before determining the price to be quoted to a specific purchaser for a corrugated container, each defendant was interested in all pertinent marketing information applicable to such account. Among other things, each defendant considered the price which that purchaser had most recently been charged or quoted for corrugated containers to be pertinent marketing information and considered it beneficial to have such information.

12. As hereinafter used, the words "most recent price" mean either the most recent price charged a specific customer in an actual sale or the price most recently quoted under the circumstances described in Paragraph 34 hereof.

13. Possible sources for obtaining the most recent price to a specific customer for corrugated containers included the defendant's own records of prior sales, the particular

purchaser involved, or one of his present or former corrugated container suppliers. Usually such information was obtained from the defendant's own records of prior sales or from the particular purchaser involved.

14. On those occasions when Albemarle, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, Miller, Owens-Illinois, St. Joe, St. Regis, Tri-State, West Virginia and Weyerhaeuser considered it necessary to ascertain the accuracy of a customer's report of another defendant's price or to ascertain from another defendant the most recent price to a specific customer for corrugated containers such price information was usually requested from a defendant then supplying that customer with corrugated containers.

15. From July 16, 1963, to October 10, 1963, Union-Camp did not communicate with other manufacturers of corrugated containers. Except for that period, on those occasions when Union-Camp considered it necessary to ascertain the accuracy of a customer's report of another defendant's price or to ascertain from another defendant the most recent price to a specific customer for corrugated containers such price information was usually requested from a defendant then supplying that customer with corrugated containers.

16. On those occasions when, prior to January 1963, Container Corporation considered it necessary to ascertain the accuracy of a customer's report of another defendant's price or to ascertain from another defendant the most recent price to a specific customer for corrugated containers such price information was usually requested from a defendant then supplying that customer with corrugated containers.

17. On those occasions when, prior to June 1962, International considered it necessary to ascertain the accuracy of a customer's report of another defendant's price or to

ascertain from another defendant the most recent price to a specific customer for corrugated containers such price information was usually requested from a defendant then supplying that customer with corrugated containers.

18. On those occasions when, prior to June 1961, Mead considered it necessary to ascertain the accuracy of a customer's report of another defendant's price or to ascertain from another defendant the most recent price to a specific customer for corrugated containers such price information was usually requested from a defendant then supplying that customer with corrugated containers.

19. When Albemarle, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, Miller, Owens-Illinois, St. Joe, St. Regis, Tri-State, West Virginia and Weyerhaeuser received a request from another defendant for the most recent price to a specific customer for corrugated containers, usually the information requested was furnished.

20. Except for the aforesaid period from July 16, 1963 to October 10, 1963, Union-Camp, when it received a request from another defendant for the most recent price to a specific customer for corrugated containers, usually furnished the information requested.

21. Prior to January 1963, when Container Corporation received a request from another defendant for the most recent price to a specific customer for corrugated containers, Container Corporation usually furnished the information requested.

22. Prior to June 1962, when International received a request from another defendant for the most recent price to a specific customer for corrugated containers, International usually furnished the information requested.

23. Prior to June 1961, when Mead received a request from another defendant for the most recent price to a

specific customer for corrugated containers, Mead usually furnished the information requested.

24. Since January 1963, it has been Container Corporation's policy that its personnel shall not request or furnish price information from or to other manufacturers of corrugated containers. Prior to 1961, Container Corporation permitted its plant sales managers and general managers in the Southeastern United States to request or furnish the most recent price to a specific customer for corrugated containers from or to other manufacturers of corrugated containers. Beginning in 1961 and continuing until January 1963, it was Container Corporation's policy that only its Southeastern Divisional Manager was permitted to request or furnish the most recent price to a specific customer for corrugated containers from or to other manufacturers of corrugated containers.

25. Since approximately June 1962, it has been International's policy that its personnel shall not request or furnish price information from or to other manufacturers of corrugated containers.

26. In June 1961, Mead issued a written directive to all of its personnel, one of the effects of which was to prohibit its personnel from requesting or furnishing price information from or to other manufacturers of corrugated containers.

27. In the Fall of 1961, Mead Containers Division of The Mead Corporation, at the request of its Southeastern Regional Sales Manager, temporarily relaxed the aforesaid prohibition against requesting and furnishing price information from and to other manufacturers of corrugated containers, to a limited extent as to him personally.

28. Thereafter, the Southeastern Regional Sales Manager for Mead Containers Division, who had jurisdiction over Florida, Georgia and Tennessee, relaxed said prohibi-

tion to some extent to District Sales Managers under his supervision.

29. During the period of the aforesaid relaxation of the prohibition against requesting and furnishing price information from or to other manufacturers of corrugated containers, District Sales Managers of Mead Containers Division, Southeastern Region, requested and furnished the most recent price to a specific customer for corrugated containers from or to other defendants as set forth in Paragraphs 18 and 23.

30. In April or May of 1962, the Atlanta, Georgia, District Sales Manager for Mead Containers Division, attended a meeting at Mead's head office in Dayton, Ohio, at which Mead's policy, as enunciated in the directive referred to in Paragraph 26, was reiterated by Mead's principal executive officers and those present were told that no exceptions would be countenanced.

31. When a defendant requested or furnished price information as described in Paragraphs 14 through 30 from or to other defendants the same was done by each in the normal conduct of its business. The extent and frequency with which such information was requested or furnished varied among the several defendants and among the plants and customers of the individual defendants.

32. In the circumstances set forth in Paragraphs 14 through 31 hereof:

The defendant Container Corporation requested and/or furnished price information as described in Paragraph 16 from and/or to each of the other defendants;

The defendant Albemarle requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Carolina, Continental, Crown Zellerbach, Dixie, Inland, Mead, Miller, Owens-Illinois, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Carolina requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Albemarle, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Regis, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Continental requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Albemarle, Carolina, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Regis, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Crown Zellerbach requested and/or furnished price information as described in Paragraph 14 from and/or to each of the other defendants;

The defendant Dixie requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Inland, International, Mead, Miller, Owens-Illinois, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Dixie of North Carolina requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Carolina, Continental, Crown Zellerbach, Inland, International, Mead, Miller, Owens-Illinois, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Inland requested and/or furnished price information as described in Paragraph 14 from and/or to each of the other defendants;

The defendant International requested and/or furnished price information as described in Paragraph 17 from and/or to the following defendants: Container Corporation, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, Mead, Miller, Owens-Illinois, St. Regis, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Mead requested and/or furnished price information as described in Paragraph 18 from and/or to each of the other defendants;

The defendant Miller requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Owens-Illinois, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Owens-Illinois requested and/or furnished price information as described in Paragraph 14 from and/or to each of the other defendants;

The defendant St. Joe requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Crown Zellerbach, Inland, Mead, Owens-Illinois, St. Regis, West Virginia and Weyerhaeuser;

The defendant St. Regis requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Carolina, Continental, Crown Zellerbach, Inland, International, Mead, Owens-Illinois, St. Joe, Tri-State, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Tri-State requested and/or furnished price information as described in Paragraph 14 from and/or to the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Regis, Union-Camp, West Virginia and Weyerhaeuser;

The defendant Union-Camp requested and/or furnished price information as described in Paragraph 15 from and/or to the following defendants: Container Corporation, Albemarle, Carolina, Continental, Crown Zellerbach, Dixie, Dixie of North Carolina, Inland, International, Mead, Miller, Owens-Illinois, St. Regis, Tri-State, West Virginia and Weyerhaeuser;

The defendant West Virginia requested and/or furnished price information as described in Paragraph 14 from and/or to each of the other defendants; and

The defendant Weyerhaeuser requested and/or furnished price information as described in Paragraph 14 from and/or to each of the other defendants.

33. When requesting from or furnishing to another defendant price information as described in Paragraphs 14 through 31 each defendant from time to time made long distance phone calls.

34. In most instances when a defendant requested or furnished another defendant information as to its price to a specific customer such information related to a price charged the customer in an actual sale but on occasion some of the defendants requested and/or furnished information as to prices quoted upon which an actual order had not at that time been received from the customer.

35. Most of the defendants prepared manuals for their own internal use containing formulae and schedules of costs and/or charges from the application of which their respective approximate manufacturing costs and/or price estimates could be computed for most corrugated containers manufactured by them. Such manuals contained schedules of costs and/or charges for corrugated container board of various weights, strengths and wall constructions stated in terms of dollars and cents with a successively higher amount being listed for grades of board of successively greater strength. Such manuals also contained various costs and/or charges relating to the actual manufacture of corrugated containers. Such manuals also contained schedules of costs and/or charges, commonly called set-up charges, for the setting up of the necessary machinery for the production of corrugated containers of various specifications. Various of such manuals have been revised from time to time to reflect changes in costs, products, materials, designs and market conditions. These

manuals were variously referred to by the companies which prepared them, among other things, as "cost manuals", "pricing manuals", "pricing procedures" or "estimating manuals". Whenever these manuals are hereinafter referred to, they are specifically described as "internal manuals".

36. At various times, manuals containing formulae and schedules of charges from the application of which a price estimate could be computed for most containers manufactured by them were prepared by each of the following: National Container Corporation, The Old Dominion Box Company, Inc., Crown Zellerbach (Gaylord Container Division) and Inland. Each of said manuals was made available to other manufacturers of and customers for corrugated containers. Except as otherwise stated, as used hereafter the word "manual" means one of the manuals referred to in this Paragraph.

37. The manuals were variously referred to in the trade, among other things, as "price lists", "estimating and pricing manuals" or "estimating manuals".

38. With respect to corrugated containers, the basic material used in the manufacture thereof was corrugated container board consisting of one or more sheets of a corrugated material sandwiched between two or more sheets of linerboard.

39. Each of the manuals contained a schedule of charges for corrugated container board of various weights, strengths and wall constructions for use in computing corrugated container prices according to the particular manual employed. These charges are stated in terms of dollars and cents with a successively higher amount being listed for grades of board of successively greater strength.

40. In the trade the charge described in Paragraph 39 hereof was variously called, among other things, an "area

charge", "base", "base price", "board base price", "board factor", "multiplier", "level" and "board level".

41. The grade of container board most commonly used in the manufacture of corrugated containers was known in the business as "200 lb. test" single wall container board made with 42 lb. liners. The term "200 lb. test" is a measure of its bursting strength, and the phrase "42 lb. liners" refers to linerboard weighing 42 pounds per 1,000 square feet, used in the two outer layers of the corrugated "sandwich".

42. The manuals also contained various charges relating to the actual manufacture of corrugated containers.

43. Before the actual manufacturing process can begin, it is necessary in the manufacture of corrugated containers to set up the production machinery to accommodate the particular specifications, such as style, dimensions, printing, kind of joint, etc., for each individual order and type of corrugated container.

44. The manuals also contained a schedule of charges, commonly called set-up charges, for the setting up of the necessary machinery for the production of corrugated containers of various specifications.

45. The most common style of corrugated container is known as a "regular slotted carton" and has a joint on one side closed with tape, staples, or glue.

A. The first item in the schedule of set-up charges appearing in "Estimating Manual National Container Corporation of the Carolinas", effective February 17, 1955, is for "taped or stitched containers", which include regular slotted cartons, full overlap cartons, half-slotted cartons, and partial overlap cartons, and is \$25.00. The charge per 1,000 sq. ft. for 200 lb. test single wall container board in said "estimating manual" is \$12.50.

B. The first item in the schedule of set-up charges appearing in "Old Dominion Box Company Price List", effective October 15, 1956, is for "taped or stitched containers", which include regular slotted cartons, full overlap cartons, half-slotted cartons, and partial overlap cartons, and is \$15.00. The charge per 1,000 sq. ft. for 200 lb. test single wall container board in said "price list" is \$12.35.

C. The first item in the schedule of set-up charges appearing in "Gaylord Container Corporation Division of Crown Zellerbach Corporation Pricing Manual", effective March 1, 1957, is for regular slotted cartons, full overlap cartons, half-slotted cartons, taped or stitched, not flap cut, and is \$15.00. The charge per 1,000 sq. ft. for 200 lb. test single wall container board in said "pricing manual" is \$12.35.

D. The first item in the schedule of set-up charges appearing in "Inland Container Corporation Estimating and Minimum Pricing Manual", effective August 1, 1957, is for regular slotted cartons, full overlap cartons, half-slotted cartons, taped or stitched, not flap cut, and is \$15.00. The charge per 1,000 sq. ft. for 200 lb. test single wall container board in said "estimating and minimum pricing manual" is \$13.00.

Each of the above manuals was prepared and published by the company whose name appears in the title thereof and was made available by that company to other manufacturers of and customers for corrugated containers.

46. On June 15, 1959, Inland Container Corporation issued an "Inland Container Corporation Estimating and Pricing Manual", effective July 1, 1959, voiding the "Inland Container Corporation Estimating and Minimum Pricing Manual" dated August 1, 1957, and which, among other things, changed the set-up charge for regular slotted cartons, full overlap cartons, half-slotted cartons, taped or stitched, not flap cut, to \$25.00. On August 1, 1961, Inland Container Corporation issued an "Inland Container Corporation Estimating and Pricing Manual", effective August

15, 1961, voiding the "Inland Container Corporation Estimating and Pricing Manual" dated July 1, 1959, and which, among other things, changed the charge per 1,000 sq. ft. for 200 lb. test single wall container board to \$14.30. Pages 7 and 8 of the Inland Manual effective August 15, 1961, containing that manual's schedule of area charges or board levels, were voided effective March 1, 1962, by new pages 7 and 8 prepared and made available by Inland to other manufacturers of and customers for corrugated containers. The aforesaid pages 7 and 8 effective March 1, 1962, contained a schedule of area charges or board levels higher in each instance than those appearing on the voided pages, and the area charge per 1,000 sq. ft. for 200 lb. test single wall container board was increased from \$14.30 to \$15.00.

47. In arriving at the price to be quoted or charged a particular purchaser for particular corrugated containers, each defendant took into account the price currently or most recently charged by it to that purchaser for the same or similar corrugated containers, the price alternatives available to the purchaser, its estimated manufacturing costs and profitability and the desirability of such business. In this connection, each of the defendants has used one or more of the manuals to compute price estimates on a substantial number of occasions in one or more of the following ways:

(a) By application of the formulae and schedules of charges set forth therein;

(b) By application of the formulae and schedules of charges set forth therein, but employing a board level different from that stated therein;

(c) By application of the formulae and schedules of charges set forth therein, but employing a set-up charge different from that stated therein;

(d) By application of the formulae and schedules of charges set forth therein, but employing other charges different from those stated therein;

(e) By any combination of the applications referred to in subparagraphs (b), (c) and (d) hereof; or

(f) By any of the applications hereinabove set forth, but then applying a discount to the result.

The extent of such use varied among the several defendants, and among the plants and customers of individual defendants.

48. In arriving at the price to be quoted or charged a particular purchaser for particular corrugated containers, each defendant having an internal manual or internal manuals has used such internal manuals in approximately the same ways and under the circumstances described in Paragraph 47, and often along with one or more of the manuals referred to in Paragraph 47. The extent of such use varied among the several defendants, and among the plants and customers of individual defendants.

49. If the same board level and set-up charge were used in computing a manual price for a corrugated container of particular specifications, there would be in most instances little difference in the results of the computation, regardless of which manual was used in making the computation.

50. The actual price charged for corrugated containers was usually referred to in the trade as the "end price", which in most instances was different from any manual price referred to in Paragraph 49.

51. On those occasions when a defendant furnished to another defendant upon his request the most recent price to a specific customer for corrugated containers such information usually was furnished either in terms of an end price or in terms of a board level. In the case of some defendants such information was furnished only in terms of an end price.

52. On those occasions when a defendant furnished to another defendant upon his request the most recent price to a specific customer for corrugated containers, end prices usually were furnished when the request involved only a few different container items, and board levels usually were furnished when the request involved more than a few different container items.

53. When a customer ordered two or more different corrugated containers, specifying the same test board for all but otherwise involving different specifications, usually the supplier filled said order at prices reflecting for the entire order a constant charge for board.

54. A defendant regularly supplying a customer with corrugated containers, when pricing an order from that customer for additional corrugated containers of the same or different specifications, would usually price such additional containers on the same basis used by it in pricing that customer's last previous order. The foregoing was subject to change when (1) there had been a change in any of the competitive or other market factors or conditions; (2) the specifications and volume requirements were not substantially the same; or (3) there had been a change in raw material costs or other significant costs.

55. Prior to July 1, 1959, each defendant included in its prices to many of its customers a set-up charge of \$15.00 for regular slotted cartons. Thereafter, and continuing into 1960, each defendant sought to increase its set-up charge for such cartons by \$10.00 to many of its customers. By July 1960 each defendant included in its prices to many of its customers a set-up charge of \$25.00 for regular slotted cartons. However, throughout such period the amount of such set-up charges varied among the several defendants and among the plants and customers of individual defendants, and in many instances the amount of set-up charge sought or received, if any, was less than the aforesaid amounts.

56. On various dates between July 24, 1961 and August 31, 1961, Container Corporation, Continental, Crown Zellerbach, Mead, Owens-Illinois, Union-Camp and West Virginia publicly announced general increases in varying amounts in their respective prices of corrugated containers to take effect on September 1, 1961, and Inland and St. Regis publicly announced general increases in varying amounts in their respective prices of corrugated containers to take effect on August 15, 1961. Each of the defendants attempted to increase its prices to the majority of its corrugated container customers and succeeded in increasing prices to some of its customers in varying amounts.

57. During the early part of 1962, the price of liner-board, which is used by each defendant to manufacture corrugated containers, was increased and as a result each of the defendants attempted to increase prices in varying amounts to some corrugated container customers.

58. The Fibre Box Association, hereinafter called the "Association", was a trade association with a nationwide membership consisting of manufacturers of corrugated and solid fibre containers.

The Association had geographic divisions and zones. Zone 10 comprised the States of Virginia and North Carolina, and was known as the Piedmont Group. Zone 11 comprised the States of South Carolina, Georgia, Florida, Alabama, and those portions of Tennessee and Kentucky east of the Tennessee River with the exception of Boone, Campbell, Jefferson and Kenton Counties of Kentucky and was known as the Southeastern Group. The Eastern Division of the Association comprised Zones 10 and 11 and also Zones 1, 2, 3 and 4 in the Northeast and Middle Atlantic United States.

59. The Association employed a statistician who supervised its statistical program as a part of which each member compiled and submitted to the Association, a weekly summary showing, in square feet, the quantity of corru-

gated and solid fibre shipments and the dollar value of these shipments.

From this data the Association prepared an overall corrugated price trend which was obtained by dividing the total dollars of sales made to the trade by the total footage shipped. These overall corrugated box price trends were compiled and published monthly for each division.

An analyzed price trend was also prepared by taking the reported sales of a selected variety of the more standard containers and adjusting the same for the box size and size of run to a common basis. These trend figures were computed for every member of the zones and divisions as well as for each respective zone and division as a unit. These division and zone price trends as well as aggregate shipment figures for each member were issued to each member approximately ten days after the close of each week and included comparative price trend figures for the prior 4-week periods, months, quarters and years. However, the individual member price trend figure was given only to that member.

Due to the variety of the materials used and the great variety in construction of the containers as well as differences in the "mix" due to seasonal factors, the indexes referred to above showed only price trends and could not be used for price comparison between competitors nor to ascertain the prices charged for any particular type of containers sold.

60. Meetings of members of Zones 10 and 11 were ordinarily held every four weeks with a representative of the Association and Legal Counsel, and at these meetings there was a review of statistics and charts showing substantially the same information referred to in Paragraph 59 hereof. In addition, statistics showing the production of paperboard, containerboard and boxboard were reviewed and compared with an average and with the prior year; and total raw material inventory figures were reported. A discussion of current business conditions for the corrugated container industry was usually included on the pro-

gram agenda and a discussion of current and expected demand for corrugated containers as indicated by incoming orders was often a part of the meeting.

61. Individual customer prices were not discussed at Association meetings. On some occasions, before or after said meetings, representatives of some of the defendants attending the meetings furnished price information of the character referred to in Paragraph 14 hereof when requested by a representative of another defendant.

62. Each of the defendants except Albemarle, Miller and St. Joe was a member of the Zone 10, Piedmont Group, and/or the Zone 11, Southeastern Group. Representatives of Miller attended one or more Association meetings of Zones 10 and/or 11 and a representative of St. Joe attended one such meeting as guests of the members.

63. On most occasions during this period, the regular four-week Association meetings of the Piedmont Group and the Southeastern Group were held jointly.

64. In or about May or June 1959 there was a meeting at the Sir Walter Raleigh Hotel in Raleigh, North Carolina, for a period of some 20 to 30 minutes, at which representatives of Container Corporation, Dixie, Crown Zellerbach and Owens-Illinois were present. Either John I. Pritchett or J. E. Faulkner, Jr., of Highland Container Corporation, upon entering the meeting announced that their company was increasing its set-up charge from \$15.00 to \$25.00 and thereupon left the meeting.

65. On July 20, 1959, there was a meeting at Dimizzio's Restaurant in Salisbury, North Carolina, at which representatives of Carolina, Continental, Crown Zellerbach, Container Corporation, Dixie, Dixie of North Carolina, Mead, Miller, and Owens-Illinois were present and at which some of them exchanged views as to how the trade had accepted an increase in set-up charges.

66. A meeting of representatives of some corrugated container manufacturers was held in August 1959, at the Raleigh Hotel in Richmond, Virginia. David B. Orcutt, West Virginia's District Sales Manager for the Richmond District, invited to this meeting a representative of each manufacturer that he believed was then supplying corrugated containers to Hygrade Packing Corporation. In response, representatives of Continental, Dixie, Miller, and Richmond Container Corporation, which companies, with the exception of Continental, were then supplying corrugated containers to Hygrade, met at the Raleigh Hotel, as aforesaid. Sometime previously West Virginia had publicly announced a general increase in its corrugated container prices of approximately 10 per cent. Some of Hygrade's suppliers named above had been advised by Hygrade that West Virginia had reduced its prices to Hygrade and had inquired of West Virginia as to whether that report was correct in view of West Virginia's previously announced price increase policy. The meeting was called to answer these inquiries at one time. At this meeting Mr. Piemonte explained to those present that West Virginia had not changed its previously announced general policy but that when it had negotiated with Hygrade it was West Virginia's good judgment that its price to that customer should be reduced 5 per cent. No statement was made at the meeting as to what any other suppliers of corrugated containers to that customer intended to do.

67. Early in 1956 corrugated container manufacturers from the Baltimore area solicited business in the Eastern part of Virginia for the manufacture and sale of corrugated containers at prices which in general were lower than the prices which corrugated container users in the Eastern part of Virginia were then paying for similar corrugated containers.

68. Miller, Dixie, Robert Gair Company prior to its acquisition by Continental, Richmond Container Corporation prior to its acquisition by Albemarle, and possibly

West Virginia endeavored to ascertain the localities in Eastern Virginia in which the aforesaid Baltimore manufacturers were active, so that each could identify geographically the area in which it would be necessary to lower corrugated container prices to meet the competition of Baltimore manufacturers. These matters were discussed by telephone and at a meeting.

69. Thereafter, in early 1956, Miller and Richmond Container Corporation (subsequently merged into Albe-marle) each adopted lower nominal board factors for Eastern Virginia than for Western Virginia.

70. All corrugated containers made to particular specifications were substantially identical regardless of which manufacturer produced them, and purchasers of corrugated containers were able to and did shift from one supplier to another on the basis of price. With minor exceptions therefore no manufacturer of such containers was able to obtain a higher price for such containers than the price at which another manufacturer had sold or offered to sell like containers to such purchaser, and it was important to each manufacturer to have accurate information as to the price alternatives available to such purchaser. Moreover, some purchasers did not accept the offer of the manufacturer making the lowest initial quotation, but afforded other manufacturers an opportunity to meet such lower quotation, and if met, such purchasers often divided their purchases among some or all of the low quoting manufacturers. In consequence, when a defendant obtained what it considered reliable information as to the most recent price to a specific customer for a specific corrugated container, in the majority of instances it quoted or charged substantially the same price irrespective of whether the source of its information had been the purchaser or another supplier. In many instances, however, depending upon particular circumstances, each defendant quoted lower or higher prices, and in all instances the determination as to the price to be charged or quoted was its individual decision.

EXHIBIT II

<u>Document Number</u>	<u>Number of Pages</u>
CCC—2977	1 page
CRO—11915	1 page
UNI—03416-7	2 pages
UNI—03493	1 page
MIL—157	1 page
DIX—60	1 page
CCC—2940	1 page
CCC—2971	1 page
CCC—2994-5	2 pages
UNI—03352-4	3 pages
UNI—03350	1 page
CCC—2895-7	3 pages
MEA—00744	17 pages with same number
UNI—00178-82	5 pages
DIX—53	1 page
WES—269	18 pages with same number
RIC—46	10 pages with same number
MEN—9-106	1 page
MEN—9-107	10 pages with same number
MIL—119	1 page
MIL—114	1 page (reverse side of MIL—119)
DIX—72	1 page
OWE—367	
OWE—370	
OWE—374	

FURTHER STIPULATION AS TO CERTAIN PROOF

The plaintiff, United States of America, and the defendants herein, by their respective attorneys, hereby stipulate and agree solely for the purpose of this proceeding and any appeal therefrom, but not otherwise, that:

(a) Attached hereto are the following exhibits:

EXHIBIT I—Further Statement of Proof

EXHIBIT II—Schedule Relating to Documents

EXHIBIT III—Statistical Tables

(b) The matters set forth in Exhibits I and II shall be deemed proved and the plaintiff shall make no objection to the admissibility in evidence of documents listed in Exhibit II or the statistics and other data set forth in Exhibit III other than objections of relevancy and materiality;

(c) No party shall, by reason of this Stipulation, be deemed to have waived any privilege or agreement as to confidentiality respecting any thing or matter not set forth in the Exhibits hereto;

(d) Nothing herein shall prevent any party from correcting any of the exhibits to this Stipulation, if typographical, mathematical, or other such error is shown to have been made therein;

(e) This Stipulation shall not be filed as or become a part of the record in this cause until the commencement of the trial on the merits and, in case of a settlement of this proceeding without a trial on the merits to final judgment, this Stipulation shall be void and of no effect;

(f) No party, by entering into this Stipulation, shall be deemed to have made any representation or admission as to any of the matters set forth in the exhibits for the purpose of any other or different action, suit or proceeding to which any of them may be or hereafter become parties, regardless of whether such action, suit or proceeding is between the parties hereto, or any of them, or between any one or more of the parties hereto and any other person or persons;

(g) The matters contained in Exhibit I hereto are limited to the Southeastern United States as defined in the Complaint in this action and, irrespective of tense used, unless otherwise expressly stated therein, refer to the entire period from January 1, 1955 to October 14, 1963;

(h) Any prior stipulation between the parties to the contrary notwithstanding, no party shall offer any evidence in this action other than:

(1) The Stipulation as to Certain Proof, dated August 12, 1964, and Exhibit I thereto;

(2) The Stipulation as to Certain Documents, dated April 22, 1965, and the Schedule attached thereto, and the Stipulation dated April 22, 1965;

(3) Such of the documents listed in the Schedule attached to the aforesaid Stipulation as to Certain Documents as plaintiff shall designate in writing not less than 60 days prior to the date fixed for trial;

(4) Such parts of the depositions heretofore taken in this action as plaintiff shall designate in writing not less than 60 days prior to the date fixed for trial and as any defendant shall designate in writing not less than 15 days prior to the date fixed for trial. No party shall object to the admissibility in evidence of any deposition heretofore taken or any part thereof except on grounds of relevancy or materiality;

(5) This Stipulation and Exhibit I hereto;

(6) Exhibit II hereto and such of the documents listed in Exhibit II hereto as any defendant shall designate in writing not less than 30 days prior to the date fixed for trial;

(7) Such of the statistics and other data set forth in Exhibit III hereto, or graphical presentations prepared therefrom or from Tables 1, 2, or 3, as any defendant shall designate in writing not less than 30 days prior to the date fixed for trial; and

(8) Opinion evidence of expert economists on behalf of the defendants based on the foregoing, and if such opinion evidence is offered on behalf of the defendants rebuttal opinion evidence of expert economists on behalf of the plaintiff based on the foregoing or any other rebuttal evidence to such expert testimony as the Court may permit upon plaintiff's application for good cause shown;

(i) The plaintiff does not contend that the facts contained in the record to be submitted as the plaintiff's affirmative case evidence an express agreement to exchange price information or to restrict competition. However, the plaintiff contends that from the facts contained in such record the Court may infer an agreement to exchange information as to the most recent quoted price for corrugated containers and that from such agreement, together with such facts, the Court may infer an agreement to restrict competition. The defendants deny that there was any agree-

ment to exchange price information or to restrict competition and contend that no such agreement or agreements can be inferred.

Dated: *May 14*, 1965.

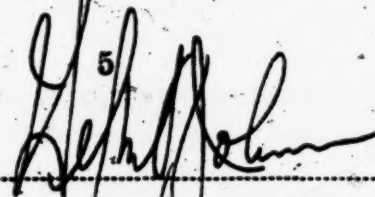
[Signature]
William M. Fure
Robert J. Fure

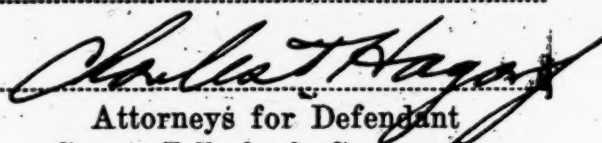
Attorneys for the Plaintiff
 United States of America

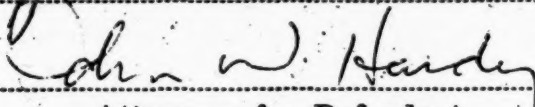
William Manning
W. H. Mortimer
 Attorneys for Defendant
 Container Corporation of America

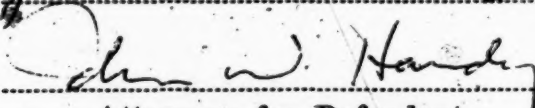
Robert F. Baxford
Carl F. Baxford
 Attorneys for Defendant
 Albemarle Paper Manufacturing
 Company

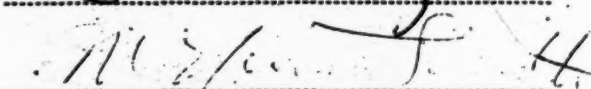
L. C. Sandridge
[Signature]
 Attorneys for Defendant
 Carolina Container Company

5

 W. C. Staring
 Attorneys for Defendant
 Continental Can Company, Inc.

Carroll T. Kilm

 Attorneys for Defendant
 Crown Zellerbach Corporation

John W. Edwards III

 Attorneys for Defendant
 Dixie Container Corporation

John W. Edwards III

 Attorneys for Defendant
 Dixie Container Corporation
 of North Carolina

John A. Dykes

 Attorneys for Defendant
 Inland Container Corporation

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Arthur B. Boker
Attorneys for Defendant
International Paper Company

Howard M. Egan
Richard L. Whitson
Attorneys for Defendant
The Mead Corporation

Robert P. Bunker
Charles F. Dechant
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Walter J. Fisher
Attorneys for Defendant
Owens-Illinois Glass Company

Richard A. Williams
Winfield Blackwell
Attorneys for Defendant
St. Joe Paper Company

Horace R. Lynch
Norman Black

Attorneys for Defendant
 St. Regis Paper Company

James G. Waller
Donald J. ...

Attorneys for Defendant
 Tri-State Container Corporation

James R. Withcraft
Robert W. Brooks

Attorneys for Defendant
 Union Bag-Camp Paper Corporation

James D. ...
...

Attorneys for Defendant
 West Virginia Pulp and Paper
 Company

Daniel C. Smith
Fred B. ...

Attorneys for Defendant
 Weyerhaeuser Company

EXHIBIT I**Further Statement of Proof**

1. In the period 1955 to 1963 the number of plants manufacturing corrugated containers in the Southeastern United States and shipments of corrugated containers from such plants increased as follows:

Year	Number of Plants			Shipments of Corrugated Containers (Millions of Sq. Ft.)
	Total	Defendants	Others	
1955.....	49	18	31	9,077
1956.....	56	21	35	9,659
1957.....	59	30	29	10,026
1958.....	67	36	31	10,400
1959.....	71	43	28	12,328
1960.....	76	46	30	12,266
1961.....	81	53	28	13,481
1962.....	85	55	30	14,831
1963.....	98	58	40	15,846

In 1955 there were 30 and in October, 1963 there were 51 manufacturers of corrugated containers in the Southeastern United States.

2. There is an ample supply of raw materials available from competitors and from others for manufacturing corrugated containers. Necessary machinery and equipment are available from numerous suppliers. Initial investment for a corrugated container manufacturing facility is relatively low, approximating as little as \$50,000 to \$75,000 for a minimum size viable enterprise.

3. The capacity to supply all purchasers of corrugated containers in the Southeastern United States has exceeded in each of the years from 1955 through 1963 the demand of such purchasers for such containers.

4. The demand for corrugated containers is determined by the volume of sales of the wide variety of disparate products manufactured and sold by the many thousands of purchasers of corrugated containers. Purchasers do not buy corrugated containers except as they need them for shipping their products, and do not build up inventories of such containers. Purchasers of corrugated containers do not enter into long term commitments for their requirements. Purchasing is done generally on a spot or short term basis covering a purchaser's immediate or near term requirements.

5. Every purchaser of corrugated containers has numerous alternate sources of supply, both actual and potential. Such purchasers are free to shift all or a part of their business from one supplier to another, and they frequently do so. Although such purchasers generally do not make such shifts unless offered a lower price by another supplier, each defendant repeatedly loses customers and obtains new ones and continuously has substantial losses and gains in its sales to particular customers. Tables 1 and 2 attached hereto as a part hereof reflect business lost and gained from one year to the next for the period 1960-1962. The figures shown in Tables 1 and 2 are representative for each defendant of the entire period covered by the Complaint and the documents listed in Exhibit II constitute a sampling from defendants' files.

6. The costs of manufacturing corrugated containers vary from plant to plant, and for each plant manufacturing corrugated containers unit costs vary with the ratio between that plant's production and capacity. Generally, each order which increases a plant's ratio of production to its capacity represents an increasing profit or diminishing loss for it. Each plant attempts to obtain orders to enable it to operate at all times at as favorable a ratio of production to its capacity as possible.

7. During the period 1955 to 1963 in the Southeastern United States the trend of corrugated container prices was

downward and while containerboard prices fluctuated during the period, they were substantially the same at the end of said period as at the beginning thereof, in contrast to the increase in prices during the same period for paper and allied products generally and for all other commodities excluding farm and food. During the same period labor rates, machinery and equipment costs, and other production costs for both corrugated containers and containerboard, increased.

8. Each defendant having its own "manual" or "internal manual", as those terms are defined in Paragraphs 36 and 35, respectively, of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964, prepared the same and any revisions thereof independently and without any agreement or understanding with any other defendant.

9. Price or cost estimates for a particular corrugated container computed under any one of such internal manuals differ from the price or cost estimates for such container computed under internal manuals of other companies.

10. The great majority of sales of each defendant is made at prices less than the prices would have been if computed on any published manual. There is no regular, prevalent or uniform percentage variation from any such computation in common use among any of the defendants, or in use by any individual defendant. Table 3 attached hereto as a part hereof contains data illustrative of the foregoing for the several defendants for the period covered by the Complaint.

11. The defendants, in selling corrugated containers, deal with buyers who have knowledge of prices which have been and are being offered by competing suppliers of corrugated containers. On occasions buyers furnish suppliers with incomplete, inaccurate, or misleading information as to prices offered by competing suppliers.

12. Prices which purchasers of corrugated containers will pay are determined on the basis of price alternatives available to them from existing and prospective suppliers. It is necessary for each supplier to meet or be below competition in order to retain its customers, and to meet or be below the prices and other terms offered by competitors in order to obtain new customers or additional business from existing customers.

13. Each defendant also sought to obtain business by advertising its containers and by offering various types and amounts of customer services such as delivery, warehousing, product development and design; the extent to which such services were offered varied among the defendants.

14. In deciding whether to seek a particular order from a particular customer, or whether to offer to sell a particular container, and in determining the price to be charged or quoted, each defendant exercises its own business judgment. Many factors influence the decision, including, among others, the following:

- (i) estimates prepared from its internal manual;
- (ii) current plant production load or existence of idle time in its plant, a condition which varies widely in each plant from week to week, season to season and with the rise and fall of business activity of its customers;
- (iii) suitability of the equipment in its plant for the production of the particular container and the expense of obtaining new equipment when necessary;
- (iv) availability of any special materials needed to produce the order;
- (v) desirability of adding the particular order to the then scheduled plant production mix and the ability to do so, which varies continuously in the operation of

the plant and which is a major determinant of the efficient and profitable operation of the plant;

(vi) convenience of customer's plant location for servicing and cost of delivery;

(vii) size of the order, e.g., carload or less than carload shipment, and customer's prescribed delivery schedule;

(viii) customer's credit rating;

(ix) growth prospects of the account and the possibility of substantial future orders;

(x) the experimental or developmental character of the particular container and the need to gain manufacturing and marketing experience with respect to it;

(xi) amount of customer's business represented by the order;

(xii) general market conditions in the Southeastern United States and in the corrugated container industry particularly;

(xiii) prices of its recent sales of the same or other corrugated containers to that customer;

(xiv) customer loyalty;

(xv) effect of the order on its costs and profits; and

(xvi) prices believed to have been most recently charged or quoted by competitors, when such defendant believed it had sufficient basis for such belief.

15. In 1963 there were more than 10,000 purchasers of corrugated containers in the Southeastern United States and, in addition, several thousand potential purchasers of such containers. In that year the defendants employed in the aggregate more than 411 sales personnel to sell their corrugated containers who in the course of their sales activity in behalf of their respective companies each business day made on the average 4 or 5 calls each on pur-

chasers or potential purchasers. In October, 1963 the defendants had the following number of sales personnel regularly soliciting corrugated container business in the Southeastern United States:

Company	Number	Company	Number
Container Corporation.....	57	Mead	26
Albemarle	9	Miller	7
Carolina	15	Owens-Illinois	59
Continental	20	St. Joe.....	12
Crown Zellerbach.....	27	St. Regis.....	23
Dixie	12	Tri-State	5
Dixie of North Carolina..	3	Union-Camp	36
Inland	24	West Virginia.....	17
International	23	Weyerhaeuser	36

16. The representative of St. Joe who attended a meeting of the Fibre Box Association, referred to in Paragraphs 61 and 62 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964, was William L. Tharpe. The meeting referred to took place on March 8, 1962 at Ponte Vedra, Florida. Neither before, during nor after the meeting did Mr. Tharpe request or receive price information from any other defendant, furnish such information to any other defendant, nor discuss prices in any way with any other defendant. No representative of St. Joe at any time requested from or furnished to any other defendant information as to prices in terms other than an end price or prices.

17. If the officers or employees of each defendant responsible for pricing corrugated containers in the Southeastern United States were called to testify, each such officer or employee would testify that:

(a) In his opinion the corrugated container industry was and is highly competitive;

(b) His company engaged in and was faced with price competition in the sale of corrugated containers;

(c) He considered that he could (with the exceptions noted in Paragraphs 15 and 24 through 30 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964) request from or furnish to competitors or not request from or furnish to competitors information as to prices for corrugated containers, and whether or not to request or furnish such information was an individual decision.

18. On April 23, 1940 a consent decree was entered in an action entitled "United States of America, Plaintiff, against National Container Association, et al., Defendants" in the United States District Court for the Southern District of New York (Civil Action No. 8-318).

19. A true copy of the consent decree is annexed hereto, made a part hereof and marked Appendix A.

20. Container Corporation and Inland were among the defendants in the aforementioned action. In addition, the following corporations were among those made defendants in such action:

Robert Gair Company, Inc., which was subsequently merged into Continental;

Gaylord Container Corporation, which was subsequently merged into Crown Zellerbach;

The Hinde & Dauch Paper Company, which was subsequently merged into West Virginia;

The Jackson Box Company, which was subsequently merged into Mead;

F. J. Kress Box Company, Niagara Corrugated Container Co., Inc. and Superior Paper Products Co., which were subsequently merged into St. Regis;

National Container Corporation, which was subsequently merged into Owens-Illinois; and

Eddy Paper Corporation and Kieckhefer Container Corporation, which were subsequently merged into Weyerhaeuser.

21. On April 20, 1940, in presenting the consent decree for the approval of the District Court in the above-entitled action, counsel for the Government stated in open court:

"The Government regards this decree as fully complying with the Departmental policy. We think it is a well drafted document, which fully satisfies the Department's policy, in that it presents a constructive program which is designed to insure, not only that the violations complained of will cease, but also that such steps will be taken by the industry as will redound to the general public welfare."

22. A *nolle prosequi* was signed in the companion criminal action (No. C-105-445) on April 23, 1940, and entered April 24, 1940. In its *nolle prosequi*, the Government stated:

"1. That it is the publicly announced policy of the Department of Justice to recommend that indictments under the Antitrust Laws be nolle prossed in the event that defendants voluntarily submit a program, embodied in a consent decree, which goes beyond anything that might be achieved by successful criminal prosecution and which binds them to a course of conduct deemed to be in the public interest in preventing the causes of illegal restraints of trade and in promoting free competition in an orderly market;

3. That the National Container Association and the corporate defendants hereinafter named, and The Stevenson Corporation have agreed to the entry of a consent decree, Civil No. 8-318, which embodies substantially the requirements in such matters set out in Paragraph 1 above;

4. That such consent decree has been tendered by defendants voluntarily and in good faith;

5. That in the opinion of the Department of Justice, the nolle prosequing of this case as to the defendants hereinafter named is justified pursuant to the policy stated in Paragraph 1 above; " " " "

23. The consent decree was widely publicized, both when it was entered and in the years subsequent thereto,

in the corrugated container industry, and each of the defendants in the instant case has been cognizant of the existence of the decree and of the terms thereof and has relied thereon.

24. Attached hereto as a part hereof are Appendices B and C which are copies respectively of "Government's Press Release (Issued April 20, 1940) Department of Justice" and "Public Statement Released December 16, 1940, Department of Justice, Division for Enforcement of Anti-trust Laws".

TABLE 1.

Business lost and gained where the old account bought nothing in the current year and the new account had bought nothing in the preceding year.

	Number of Accounts	Dollar Value of Sales Represented Thereby
CONTAINER CORPORATION		
Covering plants located at Fernandina, Fla., Memphis, Tenn., Nashville, Tenn., Chattanooga, Tenn., Knoxville, Tenn., Lexington, Ky., Louisville, Ky. and Winston-Salem, N. C.		
1960:		
Total accounts.....	3,132	\$29,393,342*
Accounts lost.....	1,313	2,567,434
New accounts.....	1,209	2,209,338
1961:		
Total accounts.....	3,331	29,775,729
Accounts lost.....	1,210	2,856,513
New accounts.....	1,409	4,058,904
1962:		
Total accounts.....	3,231	30,109,788
Accounts lost.....	1,219	1,932,441
New accounts.....	1,119	2,181,051

ALBEMARLE

Covering plant located at Richmond, Va.

1960:		
Total accounts.....	291	\$ 1,765,495**
Accounts lost.....	97	126,780
New accounts.....	92	178,761
1961:		
Total accounts.....	295	1,908,545
Accounts lost.....	96	116,440
New accounts.....	100	347,332
1962:		
Total accounts.....	283	2,131,271
Accounts lost.....	96	174,794
New accounts.....	84	141,461

* The figures for Container Corporation in this column have been rounded off to the nearest dollar. The figures for 1960 include certain charges for art, dies and pallets that were excluded in 1961 and 1962. The percentage of such charges is well below 1%. The figures for 1962 exclude certain freight charges that were included in 1960 and 1961. The percentage of such charges is below 3%.

** The figures for Albemarle in this column have been rounded off to the nearest dollar.

CAROLINA

Covering plant located at High Point, N. C.

1960:

	Number of Accounts	Dollar Value of Sales Represented Thereby
Total accounts.....	785*	\$ 5,760,281**
Accounts lost.....	126	131,695
New accounts.....	207	270,311

1961:

Total accounts.....	850	5,799,171
Accounts lost.....	171	284,386
New accounts.....	236	358,448

1962:

Total accounts.....	805	6,584,927
Accounts lost.....	219	318,076
New accounts.....	177	206,925

CONTINENTAL***

Covering plants located at Richmond, Va., Martinsville, Va. and Atlanta, Ga.

1960:

Total accounts.....	1,229	\$10,960,527****
Accounts lost.....	460	1,101,696
New accounts.....	420	1,556,977

1961:

Total accounts.....	1,151	11,492,895
Accounts lost.....	372	506,980
New accounts.....	294	1,047,317

1962:

Total accounts.....	1,098	13,459,888
Accounts lost.....	377	627,326
New accounts.....	324	962,334

* Due to incomplete records, the number of accounts for Carolina in this column will not reconcile completely as between the years.

** The figures for Carolina in this column have been rounded off to the nearest dollar.

*** Small accounts of \$2,000 or less have been disregarded in the tabulations for Continental.

**** The figures for Continental in this column have been rounded off to the nearest dollar.

Number of
AccountsDollar Value of
Sales Represented
Thereby**CROWN ZELLERBACH**

Covering plants located at Atlanta, Ga. and Greenville, S. C.

1960:

Total accounts.....	1,281	\$ 9,856,226*
Accounts lost.....	440	2,000,668
New accounts.....	414	1,001,211

1961:

Total accounts.....	1,172	10,369,069
Accounts lost.....	369	572,576
New accounts.....	260	435,988

1962:

Total accounts.....	1,341	12,455,515
Accounts lost.....	380	959,612
New accounts.....	549	3,043,265

DIXIE**

Covering plant located at Richmond, Va.

1960:

Total accounts.....	265	\$ 4,355,000***
Accounts lost.....	26	50,000
New accounts.....	46	160,000

1961:

Total accounts.....	285	4,861,000
Accounts lost.....	25	61,000
New accounts.....	80	506,000

1962:

Total accounts.....	340	6,000,000
Accounts lost.....	32	300,000
New accounts.....	111	1,439,000

* The figures for Crown Zellerbach in this column have been rounded off to the nearest dollar.

** Small accounts of \$2,500 or less have been disregarded in the tabulations for Dixie. Because of incomplete records, Dixie's "Accounts lost" tabulations and, to the extent they reflect "Accounts lost," "Total accounts" tabulations are based on estimates. These estimates tend to understate "Accounts lost", and consequently the figures in the column headed "Number of Accounts" will not reconcile completely as between the years. However, Dixie believes that the tabulations are substantially accurate.

*** The figures for Dixie in this column have been rounded off to the nearest thousand dollars.

DIXIE OF NORTH CAROLINA

Covering plant located at Morganton, N. C.

1960:

	Number of Accounts	Dollar Value of Sales Represented Thereby
Total accounts.....	70*	
Accounts lost.....	10	\$ 10,855**
New accounts.....	33	77,741

1961:

Total accounts.....	112	
Accounts lost.....	19	22,903
New accounts.....	55	133,873

1962:

Total accounts.....	157	
Accounts lost.....	36	62,158
New accounts.....	70	120,604

INLAND

Covering customers located in Southeastern United States.

1960:

Total accounts.....	1,094	\$15,193,254***
Accounts lost.....	325	1,054,260
New accounts.....	400	1,467,670

1961:

Total accounts.....	1,236	15,459,690
Accounts lost.....	303	838,726
New accounts.....	445	1,542,276

1962:

Total accounts.....	1,244	18,669,132
Accounts lost.....	418	1,427,804
New accounts.....	426	1,139,764

* Due to differing methods of compilation, the number of accounts for Dixie of North Carolina in this column will not reconcile completely as between the years.

** Dollar sales figures for Dixie of North Carolina's "Total accounts" are unavailable. The figures which do appear in this column for Dixie of North Carolina have been rounded off to the nearest dollar.

*** The figures for Inland in this column have been rounded off to the nearest dollar.

Number of
AccountsDollar Value of
Sales Represented
Thereby**INTERNATIONAL**

Covering plants located at Georgetown, S. C. and Auburndale, Fla.

1960:

Total accounts.....	408	\$ 3,579,995*
Accounts lost.....	64	121,754
New accounts.....	162	329,582

1961:

Total accounts.....	447	4,440,646
Accounts lost.....	96	164,416
New accounts.....	135	492,988

1962:

Total accounts.....	449	5,670,344
Accounts lost.....	114	236,887
New accounts.....	116	374,860

MEAD**

Covering plants located at Durham, N. C., Atlanta, Ga. and Miami, Fla.

1960:

Total accounts.....	1,759	\$13,528,819***
Accounts lost.....	212	1,067,242
New accounts.....	224	1,103,756

1961:

Total accounts.....	1,878	13,583,308
Accounts lost.....	135	507,153
New accounts.....	304	1,569,478

1962:

Total accounts.....	2,066	15,175,141
Accounts lost.....	245	585,347
New accounts.....	485	1,836,957

* The figures for International in this column have been rounded off to the nearest dollar.

** Small accounts of \$2,000 or less were ignored in compiling the "Accounts lost" and "New accounts" figures for Mead's Durham, N. C. and Atlanta, Ga. plants. Some Mead customers were counted as single accounts in the "Accounts lost" and "New accounts" columns but were counted as multiple accounts in the "Total accounts" column because they had a number of plants ordering as separate entities. As a result, the figures for Mead in the column headed "Number of Accounts" do not reconcile completely as between the years.

*** With the exception of the "Total accounts" figures for its Atlanta, Ga. plant which were rounded off to the nearest thousand dollars, Mead's figures for this column were rounded off to the nearest dollar.

Number of
AccountsDollar Value of
Sales Represented
Thereby**MILLER**

Covering plant located at Roanoke, Va.

1960:

Total accounts.....	349	\$ 2,546,000*
Accounts lost.....	97	165,000
New accounts.....	55	58,000

1961:

Total accounts.....	343	2,697,000
Accounts lost.....	83	202,000
New accounts.....	77	217,000

1962:

Total accounts.....	380	3,185,000
Accounts lost.....	49	110,000
New accounts.....	86	206,000

OWENS-ILLINOIS

Covering plants located at Atlanta, Ga., Jacksonville, Fla., Miami, Fla. and Salisbury, N. C.

1960:

Total accounts.....	2,527	\$14,236,000**
Accounts lost.....	896	1,640,000
New accounts.....	908	2,252,000

1961:

Total accounts.....	2,353	16,475,000
Accounts lost.....	941	1,879,000
New accounts.....	767	2,579,000

1962:

Total accounts.....	2,275	17,702,000
Accounts lost.....	746	1,356,000
New accounts.....	668	2,084,000

* The figures for Miller in this column have been rounded off to the nearest thousand dollars.

** The figures for Owens-Illinois in this column have been rounded off to the nearest thousand dollars.

ST. JOE

Covering plants located at Port St. Joe, Fla. and Birmingham, Ala.

1960:

	Number of Accounts	Dollar Value of Sales Represented Thereby
Total accounts.....	647	\$ 3,705,765*
Accounts lost.....	148	275,893
New accounts.....	378	839,145

1961:

Total accounts.....	685	5,007,166
Accounts lost.....	210	264,122
New accounts.....	248	334,304

1962:

Total accounts.....	704	5,697,530
Accounts lost.....	208	220,726
New accounts.....	227	1,069,907

ST. REGIS

Covering plants located at Atlanta, Ga., Birmingham, Ala. and Jacksonville, Fla.

1960:

Total accounts.....	1,397	\$ 7,216,890**
Accounts lost.....	311	386,669
New accounts.....	467	828,809

1961:

Total accounts.....	1,287	7,715,017
Accounts lost.....	460	626,111
New accounts.....	350	678,566

1962:

Total accounts.....	1,333	7,289,296
Accounts lost.....	426	846,642
New accounts.....	472	968,882

* Amounts of less than one dollar have been dropped in the figures for St. Joe in this column.

** The figures for St. Regis in this column have been rounded off to the nearest dollar. Averages were used to convert gross sales figures to net sales figures. In the case of the Birmingham, Ala. plant, the records for 1960 for certain customers combined corrugated box with folding box sales; however, such records relate to less than 0.5% of total sales for 1960, and estimates were made with respect to the sales reflected by such records on the basis of the proportion of corrugated to folding box sales to such customers in later years.

TRI-STATE

Covering plant located at Elizabethton, Tenn.

1960:

	Number of Accounts	Dollar Value of Sales Represented Thereby
Total accounts.....	352	\$ 6,227,741*
Accounts lost.....	63	109,719
New accounts.....	68	260,629

1961:

Total accounts.....	386	6,234,344
Accounts lost.....	72	278,387
New accounts.....	107	282,020

1962:

Total accounts.....	396	6,935,664
Accounts lost.....	85	151,646
New accounts.....	95	287,262

UNION-CAMP

Covering plants located at Spartanburg, S. C. and Jamestown, N. C.**

1962:

Total accounts.....	864	\$ 9,038,421***
Accounts lost.....	175	369,601
New accounts.....	207	555,186

* Amounts of less than one dollar have been dropped in the figures for Tri-State in this column.

** No comparisons available before 1962.

*** The figures for Union-Camp in this column have been rounded off to the nearest dollar.

WEST VIRGINIA*Number of
AccountsDollar Value of
Sales Represented
Thereby

Covering plants located at Richmond, Va. and Gastonia, N. C.

1960:

Total accounts.....	1,304	\$10,417,948
Accounts lost.....	354	450,603
New accounts.....	403	1,342,998

1961:

Total accounts.....	1,211	10,699,339
Accounts lost.....	398	545,249
New accounts.....	305	430,488

1962:

Total accounts.....	1,161	12,117,882
Accounts lost.....	327	604,805
New accounts.....	277	468,591

WEYERHAEUSER

Covering plants located at Charlotte, N. C. and Tampa, Fla.

1960:

Total accounts.....	1,118**	\$ 6,315,371***
Accounts lost.....	411	345,403
New accounts.....	360	1,119,968

1961:

Total accounts.....	1,089	6,525,929
Accounts lost.....	357	426,088
New accounts.....	315	672,331

1962:

Total accounts.....	1,077	7,061,580
Accounts lost.....	344	493,741
New accounts.....	329	652,929

Covering plant located at Lynchburg, Va.****

1962:

Total accounts.....	201	\$ 718,069
Accounts lost.....	86	22,378
New accounts.....	96	130,065

* The figures for West Virginia in this column have been rounded off to the nearest dollar.

** Weyerhaeuser has treated as separate "accounts" different plants of the same customer where there is separate and independent control of purchasing at the plant level. Due in varying degrees to merger of customers and the centralization or decentralization of the control of purchasing as between respective plants of customers, the number of accounts for Weyerhaeuser in this column will not reconcile completely as between the years.

*** The figures for Weyerhaeuser in this column have been rounded off to the nearest dollar.

**** No comparisons available before 1962.

TABLE 2

Business lost and gained where the old account was not entirely lost and new business gained was in an account previously serviced.

CONTAINER CORPORATION*

Covering plants located at Fernandina, Fla., Memphis, Tenn., Nashville, Tenn., Chattanooga, Tenn., Knoxville, Tenn., Lexington, Ky., Louisville, Ky. and Winston-Salem, N. C.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	3,132	\$29,393,342		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	345	553,669	\$ 2,718,234	\$(2,164,565)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	488	6,287,025	2,106,850	4,180,175
1961:				
Total accounts.....	3,331	29,775,729		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	343	654,745	2,960,854	(2,306,109)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	477	4,304,660	1,621,560	2,683,100
1962:				
Total accounts.....	3,231	30,109,788		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	376	846,055	3,575,969	(2,729,914)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	558	5,160,920	1,873,062	3,287,858

* Dollar figures have been rounded off to the nearest dollar. Such figures for 1960 include certain charges for art, dies and pallets that were excluded in 1961 and 1962; the percentage of such charges is well below 1%. Because dollar figures for 1962 exclude certain freight charges that were included in 1960 and 1961, an adjustment was used, where required, to compare 1962 sales with the preceding year's sales.

ALBEMARLE*

Covering plant located at Richmond, Va.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	291	\$ 1,765,495		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	40	65,146	\$ 240,808	\$ (175,662)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	49	474,942	97,188	377,754
1961:				
Total accounts.....	295	1,908,545		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	50	132,348	426,965	(294,617)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	50	399,292	196,332	202,960
1962:				
Total accounts.....	283	2,131,271		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	33	47,253	180,409	(133,156)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	65	651,511	270,436	381,075

* Dollar figures have been rounded off to the nearest dollar.

CAROLINA*

Covering plant located at High Point, N. C.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	785	\$ 5,760,281		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	59	136,270	\$ 382,434	\$ (246,163)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	122	885,265	240,018	645,247
1961:				
Total accounts.....	850	5,799,171		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	97	149,762	548,227	(398,465)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	76	422,794	121,436	291,358
1962:				
Total accounts.....	805	6,584,927		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	79	136,317	* 420,501	(284,184)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	116	684,841	222,719	462,122

* Dollar figures have been rounded off to the nearest dollar.

CONTINENTAL*

Covering plants located at Richmond, Va., Martinsville, Va. and Atlanta, Ga.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,229	\$10,960,527		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	135	354,431	\$ 1,832,090	\$(1,477,659)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	75	2,431,573	798,926	1,632,647
1961:				
Total accounts.....	1,151	11,492,895		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	145	374,891	1,781,261	(1,406,370)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	48	1,629,638	846,112	783,526
1962:				
Total accounts.....	1,098	13,459,888		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	122	224,279	1,127,322	(903,043)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	61	2,678,594	1,523,958	1,154,636

* Small accounts of \$2,000 or less have been disregarded. Dollar figures have been rounded off to the nearest dollar.

CROWN ZELLERBACH*

Covering plants located at Atlanta, Ga. and Greenville, S. C.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,281	\$ 9,856,226		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	74	445,617	\$ 1,495,326	\$(1,049,709)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	56	1,082,675	415,936	666,739
1961:				
Total accounts.....	1,172	10,369,069		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	68	266,666	885,671	(619,005)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	64	1,738,449	645,148	1,093,301
1962:				
Total accounts.....	1,341	12,455,515		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	49	206,794	892,640	(685,846)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	79	2,675,267	1,248,948	1,426,319

* Small accounts of \$3,500 or less have been disregarded except as far as the "Total accounts" figures are concerned. Dollar figures have been rounded off to the nearest dollar.

INLAND*

Covering customers located in Southeastern United States.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,094	\$15,193,254		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	126	606,149	\$ 2,295,513	\$(1,689,364)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	132	2,246,150	995,212	1,250,938
1961:				
Total accounts.....	1,236	15,359,690		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	148	602,536	2,169,733	(1,567,197)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	160	2,431,176	650,820	1,780,356
1962:				
Total accounts.....	1,244	18,669,132		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	127	431,440	1,570,594	(1,139,154)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	191	4,233,955	1,142,572	3,091,383

* Dollar figures have been rounded off to the nearest dollar.

INTERNATIONAL*

Covering plants located at Georgetown, S. C. and Auburndale, Fla.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	408	\$ 3,579,995		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	32	150,602	\$ 512,749	\$ (362,147)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	78	873,467	368,343	505,124
1961:				
Total accounts.....	447	4,440,646		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	59	122,184	368,098	(245,914)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	84	1,179,761	511,351	668,410
1962:				
Total accounts.....	449	5,670,344		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	56	176,291	460,667	(284,377)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	128	2,457,014	896,204	1,560,811

* Dollar figures have been rounded off to the nearest dollar.

MEAD*

Covering plants located at Durham, N. C., Atlanta, Ga. and Miami, Fla.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,759	\$13,528,819		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	132	691,569	\$ 2,897,888	\$ (2,206,319)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	147	2,823,053	1,062,581	1,760,472
1961:				
Total accounts.....	1,878	13,583,308		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	103	388,659	1,409,488	(1,020,829)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	151	2,695,732	973,850	1,721,882
1962:				
Total accounts.....	2,066	15,175,141		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	105	378,446	1,348,626	(970,180)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	138	3,369,881	1,165,151	2,204,730

* Small accounts of \$2,000 or less have been disregarded except as far as the "Total accounts" figures are concerned. The figures for the Durham, N. C. and Atlanta, Ga. plants were rounded off to the nearest dollar; the figures for the Miami, Fla. plant were rounded off to the nearest hundred dollars.

OWENS-ILLINOIS*

Covering plants located at Atlanta, Ga., Jacksonville, Fla., Miami, Fla. and Salisbury, N. C.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	2,527	\$14,236,000		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	357	668,000	\$ 2,596,000	\$(1,928,000)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	381	2,738,000	1,067,000	1,671,000
1961:				
Total accounts.....	2,353	16,475,000		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	268	537,000	2,005,000	(1,468,000)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	470	5,428,000	2,148,000	3,280,000
1962:				
Total accounts.....	2,275	17,702,000		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	288	956,000	3,754,000	(2,798,000)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	412	4,664,000	1,753,000	2,911,000

* Dollar figures have been rounded off to the nearest thousand dollars.

ST. JOE

Covering plants located at Port St. Joe, Fla. and Birmingham, Ala.

	Number	Current Year's Dollar Value of Sales Represented Thereby*	Preceding Year's Dollar Value of Sales Represented Thereby*	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	647	\$ 3,705,765		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	41	75,166	\$ 225,730	\$ (150,563)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	76	1,061,150	455,711	605,439
1961:				
Total accounts.....	685	5,007,166		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	78	82,646	292,989	(210,343)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	128	1,007,309	329,919	677,390
1962:				
Total accounts.....	704	5,697,530		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	88	144,557	491,075	(346,518)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	173	1,891,142	666,731	1,224,411

* Amounts of less than one dollar have been dropped in the final figures.

ST. REGIS*

Covering plants located at Atlanta, Ga., Birmingham, Ala. and Jacksonville, Fla.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,397	\$ 7,216,890		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	149	247,020	\$ 717,048	\$ (470,028)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	255	1,823,696	772,838	1,050,858
1961:				
Total accounts.....	1,287	7,715,017		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	177	272,391	1,193,552	(921,161)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	246	2,705,998	859,418	1,846,580
1962:				
Total accounts.....	1,333	7,289,296		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	131	317,092	1,610,848	(1,293,756)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	265	2,009,504	847,023	1,162,481

* Dollar figures have been rounded off to the nearest dollar. Averages were used to convert gross sales figures to net sales figures. In the case of the Birmingham, Ala. plant, the records for 1960 for certain customers combined corrugated box with folding box sales; however, such records relate to less than 0.5% of total sales for 1960, and estimates were made with respect to the sales reflected by such records on the basis of the proportion of corrugated to folding box sales to such customers in later years.

TRI-STATE

Covering plant located at Elizabethton, Tenn.

	Number	Current Year's Dollar Value of Sales Represented Thereby*	Preceding Year's Dollar Value of Sales Represented Thereby*	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	352	\$ 6,227,741		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	10	154,986	\$ 438,401	\$ (283,415)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	40	1,008,149	498,498	509,651
1961:				
Total accounts.....	386	6,234,344		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	20	164,017	539,182	(375,165)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	38	504,420	209,795	294,625
1962:				
Total accounts.....	396	6,935,664		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	20	116,649	433,445	(316,796)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	51	1,793,736	887,524	906,212

* Amounts of less than one dollar have been dropped in the final figures.

WEST VIRGINIA*

Covering plants located at Richmond, Va. and Gastonia, N. C.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,304	\$10,417,948		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	139	197,717	\$ 858,754	\$ (661,037)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	214	1,871,981	739,630	1,132,351
1961:				
Total accounts.....	1,211	10,699,339		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	158	347,276	1,155,025	(807,749)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	226	2,631,090	1,030,713	1,600,377
1962:				
Total accounts.....	1,161	12,117,882		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	115	212,715	613,214	(400,499)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	253	2,915,480	1,320,329	1,595,151

* Dollar figures have been rounded off to the nearest dollar.

WEYERHAEUSER*

Covering plants located at Charlotte, N. C. and Tampa, Fla.

	Number	Current Year's Dollar Value of Sales Represented Thereby	Preceding Year's Dollar Value of Sales Represented Thereby	Increase (or Decrease) of Current Year's Sales Over (or from) Preceding Year's Sales
1960:				
Total accounts.....	1,118	\$ 6,315,371		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	51	234,683	\$ 915,765	\$ (681,082)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	48	1,928,485	623,407	1,305,078
1961:				
Total accounts.....	1,089	6,525,929		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	48	523,112	1,515,538	(992,426)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	58	1,525,621	310,264	1,215,357
1962:				
Total accounts.....	1,077	7,061,580		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	84	293,480	1,452,777	(1,159,297)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	90	2,135,243	542,089	1,593,154

Covering plant located at Lynchburg, Va.**

1962:				
Total accounts.....	201	718,069		
Accounts where current year's sales (in dollars) are less than 50% of preceding year's sales.....	2	20,845	60,552	(39,707)
Accounts where current year's sales (in dollars) are more than 150% of preceding year's sales.....	13	171,634	26,470	145,164

* Small accounts of \$5,000 or less have been disregarded except as far as the "Total accounts" figures are concerned. Dollar figures have been rounded off to the nearest dollar.

** No comparisons available before 1962.

TABLE 3

Data illustrative of the facts that the great majority of sales of each defendant is made at prices less than the prices would have been if computed on any published manual and that there is no regular, prevalent or uniform percentage variation from any such computation in common use among any of the defendants, or in use by any individual defendant. (Each defendant's computations in connection with its preparation of that portion of Table 3 relating to it were made solely for the purpose of preparing Table 3).

CONTAINER CORPORATION

Percentages by which actual selling prices during the month of January, 1962, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

	Chattanooga Plant	Knoxville Plant	Winston- Salem Plant
Percentage of sales made at prices greater than manual	9.0%	9.6%	2.1%
" " " equal to manual	1.0	14.0	4.7
" " " 0 - 5.0% below manual	6.2	6.2	20.1
" " " 5.1 - 10 " "	17.7	20.6	20.2
" " " 10.1 - 15 " "	10.7	22.0	23.2
" " " 15.1 - 20 " "	7.4	12.0	6.7
" " " 20.1 - 25 " "	9.4	7.6	7.0
" " " 25.1 - 30 " "	10.3	4.4	2.2
" " " 30.1 - 35 " "	12.6	1.8	13.5
" " " 35.1 - 40 " "	6.7	1.8	.3
" " " 40.1 - 45 " "	5.4	—	—
" " " 45.1 - 50 " "	1.9	—	—
" " " 50.1 - 55 " "	1.7	—	—
	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>

CROWN ZELLERBACH

Percentages by which actual selling prices during the month of January, 1962, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

					Atlanta Plant	Greenville Plant
Percentage of sales						
made at prices	greater than manual				8.52%	5.07%
" " "	equal to manual				.62	2.33
" " "	0 - 5.0% below manual				7.04	5.62
" " "	5.1 - 10	"	"		14.06	10.39
" " "	10.1 - 15	"	"		19.47	16.99
" " "	15.1 - 20	"	"		8.67	24.48
" " "	20.1 - 25	"	"		15.27	7.03
" " "	25.1 - 30	"	"		14.20	15.09
" " "	30.1 - 35	"	"		7.81	7.09
" " "	35.1 - 40	"	"		3.88	4.69
" " "	40.1 - 45	"	"		.34	.81
" " "	45.1 - 50	"	"		.11	.24
" " "	50.1 - 55	"	"		.01	.13
" " "	55.1 - 60	"	"	"	—	.05
					<u>100.0%</u>	<u>100.01%*</u>

* Exceeds 100.0% due to rounding.

DIXIE

Percentages by which actual selling prices during the month of January, 1963, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

Percentage of sales						
made at prices	equal to and greater than manual					23.7%
" " "	0 - 4.4% below manual					4.3
" " "	4.5 - 9.0	"	"			5.7
" " "	9.1 - 16.0	"	"			21.6
" " "	16.1 - 18.4	"	"			10.1
" " "	18.5 - 23.0	"	"			11.8
" " "	23.1 - 29.9	"	"			4.2
" " "	30.0 or more	"	"			18.6
						<hr/> 100.0%

INLAND

Percentages by which actual selling prices during the month of February, 1962, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

Percentage of sales		Macon Plant	
made at prices greater than manual			.3%
" " "	equal to manual	—	
" " "	0 - 5.0% below manual	—	
" " "	5.1 - 10	—	
" " "	10.1 - 20	" "	39.7
" " "	20.1 - 30	" "	40.3
" " "	30.1 or more	" "	19.7
			<hr/> 100.0%

MEAD

Percentages by which actual selling prices during the month of June, 1963, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual referred to in Paragraph 45, D, of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

						Durham Plant
Percentage of sales						
made at prices greater than manual						6.4%
"	"	"	equal to manual			9.4
"	"	"	0	-	5.0% below manual	6.7
"	"	"	5.1	-	10	6.1
"	"	"	10.1	-	15	1.9
"	"	"	15.1	-	20	45.6
"	"	"	20.1	-	25	16.8
"	"	"	25.1	-	30	6.9
"	"	"	30.1	-	35	0.2
						<hr/> 100.0%

OWENS-ILLINOIS

Percentages by which actual selling prices during the month of June, 1963, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective March 1, 1962, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

Percentage of sales						Salisbury Plant
made at prices greater than manual						.05%
"	"	"	equal to manual			7.97
"	"	"	0	-	5.0% below manual	10.26
"	"	"	5.1	-	10	10.58
"	"	"	10.1	-	15	12.85
"	"	"	15.1	-	20	14.05
"	"	"	20.1	-	25	9.36
"	"	"	25.1	-	30	19.02
"	"	"	30.1	-	35	12.28
"	"	"	35.1	-	40	3.56
"	"	"	40.1	-	45	.02
"	"	"	45.1	-	50	.01
						<hr/> 100.01%*

*Exceeds 100.0% due to rounding.

ST. JOE

Percentages by which actual selling prices during the months of August, 1960 (Port St. Joe Plant), and October, 1961 (Birmingham Plant), were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective July 1, 1959 (Port St. Joe Plant), or the manual effective August 15, 1961 (Birmingham Plant) referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

				Port St. Joe Plant	Birmingham Plant
Percentage of sales made at prices greater than manual				27.07%	3.22%
"	"	"	equal to manual	7.82	3.76
"	"	"	0 - 5.4 below manual	24.97	6.78
"	"	"	5.5 - 10.4	23.00	16.10
"	"	"	10.5 - 15.4	6.61	17.51
"	"	"	15.5 - 20.4	3.41	8.12
"	"	"	20.5 - 25.4	5.53	11.96
"	"	"	25.5 - 30.4	.79	12.15
"	"	"	30.5 - 35.4	.28	5.99
"	"	"	35.5 - 40.4	.47	7.50
"	"	"	40.5 - 45.4	—	4.79
"	"	"	45.5 - 50.4	.01	1.88
"	"	"	50.5 - 55.4	.01	.07
"	"	"	55.5 - 60.4	—	.10
"	"	"	60.5 - 65.4	—	—
"	"	"	65.5 - 70.4	—	.02
				99.97%*	99.95%*

* Figures do not total 100% due to rounding.

WEST VIRGINIA

Percentages by which actual selling prices during the month of January, 1963, were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective March 1, 1962, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964.

Percentage of sales						Gastonia Plant
made at prices greater than manual						.59%
"	"	"	equal to manual			9.63
"	"	"	0	-	5.0% below manual	11.25
"	"	"	5.1	-	10	10.67
"	"	"	10.1	-	15	7.35
"	"	"	15.1	-	20	4.40
"	"	"	20.1	-	25	11.36
"	"	"	25.1	-	30	10.00
"	"	"	30.1	-	35	12.79
"	"	"	35.1	-	40	9.27
"	"	"	40.1	-	45	10.13
"	"	"	45.1	-	or more	2.57
						<hr/> 100.01%*

* Exceeds 100.00% due to rounding.

**Percentages of sales made during July, 1963,
at various board levels.**

(The board levels have been computed from actual selling prices and are expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.)

						Martinsville Plant
Percentage of sales made at board levels below \$ 9.00						3.84%
"	"	"	"	"	from \$ 9.00 to \$10.35	13.18
"	"	"	"	"	" \$10.36 to \$12.34	38.28
"	"	"	"	"	" \$12.35 to \$12.99	14.74
"	"	"	"	"	of \$13.00	19.58
"	"	"	"	"	from \$13.01 to \$13.59	.03
"	"	"	"	"	" \$13.60 to \$13.65	7.40
"	"	"	"	"	" \$13.66 to \$14.29	.87
"	"	"	"	"	of \$14.30	1.68
"	"	"	"	"	over \$14.30	.40
						100.00%

MILLER**Percentages of sales made during October, 1962,
at various board levels.**

(The board levels have been computed from actual selling prices and are expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.)

Percentage of sales						
made at board levels below \$12.00.....					21.0%	
"	"	"	"	"	from \$12.01 to \$12.99.....	17.9
"	"	"	"	"	of \$13.00.....	14.4
"	"	"	"	"	from \$13.01 to \$14.00.....	25.8
"	"	"	"	"	" \$14.01 to \$15.00.....	20.5
"	"	"	"	"	of over \$15.00.....	.4
						<hr/>
						100.0%

UNION-CAMP

PART I

Percentages of sales made during July, 1961, October, 1961, February, 1962, and March, 1963, at various board levels.

(The board levels have been computed from actual selling prices and are expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.)

		Jamestown Plant			
		July 1961	Oct. 1961	Feb. 1962	Mar. 1963
Percentage of sales made at board levels	\$ 9.1000 and below	1.7	1.9	—	5.7
" " " " " from \$ 9.1001 to	10.3900 inc.	46.5	34.5	17.4	28.6
" " " " " \$10.3901 to	12.3400 inc.	27.5	36.9	48.6	35.6
" " " " " \$12.3401 to	12.9900 inc.	14.1	2.1	1.8	5.2
" " " " " \$12.9901 to	13.5900	10.2	7.8	12.3	11.6
" " " " " \$13.5901 to	14.2900 inc.	—	8.1	11.8	2.9
" " " " " \$14.2901 to	14.9900 inc.	—	8.7	8.1	5.2
" " " " " \$14.9901 and above		—	—	—	5.2
		100.0%	100.0%	100.0%	100.0%

Board levels set forth in the various manuals referred to in Paragraphs 45 and 46 of Exhibit I to the Stipulation as to Certain Proof dated August 12, 1964, are as follows:

February 17, 1955—\$12.50

October 15, 1956 — 12.35

August 1, 1957 — 13.00

August 15, 1961 — 14.30

March 1, 1962 — 15.00

UNION-CAMP

PART II

SUMMARY

ALL SALES OF FOUR SPECIFIC BOXES

—1957 through 1962—

Box No.	Actual Sales Price Range (\$)	Manual Price Range (\$)
CT-2R1.....	192.35-228.85	317.25-366.40
12/3.....	86.40-106.55	145.85-173.25
75228.....	533.45-575.75	549.05-621.40
71211.....	118.50-144.80	192.70-226.20

CONSENT DECREE

The United States of America filed its complaint herein April 20, 1940; each of the above-named defendants appeared and filed its answer to such complaint; no testimony having been taken, each of said defendants consents to the entry of this decree, without any findings of fact, on condition that neither such consent nor this decree shall be evidence, admission, or adjudication that it has violated any law of the United States; and the United States, by counsel, having

consented to the entry of this decree and to each and every provision thereof, and having moved for this injunction;

And it appearing that by virtue of the attached consents of said defendants, and the acceptance of the same by the plaintiff, it is unnecessary to proceed with the trial of the action, or to take testimony therein, or to make findings of fact, or to adjudicate the issues presented by the pleadings;

Now, THEREFORE, before any testimony has been taken, and without any findings of fact or adjudication of the issues, and upon the consent of all parties hereto, it is hereby

ORDERED AND DECREED as follows:

1. The Court has jurisdiction of the parties to this decree; and for the purposes of this decree and proceedings for the enforcement thereof, and for no other purpose, the Court has jurisdiction of the subject matter hereof, and the complaint states a cause of action against said defendants, and each of them, under Section 1 of the Sherman Act. (15 U. S. C. A. § 1).

2. Said defendants, their successors, members, directors, officers, agents, and employees, and all persons acting under, through, or for them, be, and they hereby are, enjoined and restrained from agreeing, combining, or conspiring among themselves or with any other manufacturer of corrugated or solid fibre shipping containers

(a) to limit production of corrugated or solid fibre shipping containers to predetermined quotas;

(b) to formulate, promote, or take part in any plan for prorationing of business, or the equitable sharing of available business, the purpose or effect of which is to limit the production of such containers to such quotas;

(c) to determine the volume of business of manufacturers of such containers for any period or periods for the purpose of establishing such quotas;

(d) to collect, compile, or compare data respecting production, sales, orders, shipments, or deliveries of such containers for the purpose of determining whether manufacturers of such containers have adhered to, or are adhering to, such quotas;

(e) to distribute production, shipment, or price data, in such form as to indicate that a manufacturer of such containers is or is not adhering to any such quota;

(f) to present or discuss, at meetings of manufacturers of such containers, or elsewhere, or by correspondence or otherwise, production, shipment, or price data in such form or manner as to indicate that a manufacturer of such containers has exceeded any such quota, or that it should limit present or future production so as to come within any such quota;

(g) to examine or audit the production, shipment, or price records or accounts of manufacturers of such containers for the purpose of securing adherence to any such quota;

(h) to allocate, or to refrain from soliciting, customers of manufacturers of such containers, or to allocate markets or marketing territories among the several manufacturers of such containers;

(i) to fix or maintain prices for such containers;

(j) to use, or to promote the use of, an estimating manual, or any other handbook or device, for the purpose of fixing or maintaining the prices of such containers;

(k) to use, or to promote the use of, predetermined prices for materials, manufacturing operations, or delivery in

- (i) estimating or pricing such containers, or
- (ii) analyzing production, price, sales, order, shipment, or delivery data of manufacturers of such containers for the purpose of fixing or maintaining the prices thereof of two or more manufacturers;
- (l) to examine or audit the production, shipment, or price records or accounts of manufacturers of such containers for the purpose of fixing or maintaining the prices of such containers;
- (m) to compel a manufacturer of such containers
 - (i) to submit copies of invoices to a trade association or like agency, or
 - (ii) to name or identify any customer account in connection with the submission of invoices to such trade association or agency;
- (n) to authorize a trade association or like agency to disclose customer invoices (or data as to individual transactions with customers), which have been submitted by a manufacturer of such containers to such trade association or agency, to a competitor of such manufacturer.

3. Nothing contained in this decree limits the right of said defendants, their successors, members, directors, officers, agents, and employees, and all persons acting under, through, or for them, or any of them, to do, or to cooperate in doing, any act, or to engage in any practice, not enjoined by this decree, including but not limited to the following:

- (a) gathering, auditing, and disseminating information as to the cost of manufacture of corrugated and solid fibre containers, the volume of production and shipment, the actual price (or base price derived from actual price) which the product has brought in past transactions, stocks of merchandise and materials on hand, approximate cost of transportation, and any

other facts pertaining to the condition or operation of the industry, and meeting to discuss such information and statistics without, however, reaching or attempting to reach any agreement or any concerted action with respect to prices or production of such containers;

(b) promoting the application of uniform cost accounting to the manufacturing, estimating, and sales policies and practices of manufacturers of such containers;

(c) compiling, publishing, and circulating, in the form of a currently revised loose leaf industry manual, handbook, or otherwise, recommended formulas, methods, systems, or procedures, and illustrations thereof, for the computation of selling prices of such containers without, however, in any such industry manual or handbook, specifying or recommending the selling price to be charged for any such containers, the price to be charged for freight or any manufacturing operation or material used in the manufacture of such containers, or rate of profit to be included by any manufacturer in the selling price of any such containers;

(d) compiling, publishing, and circulating, in any form, current data as to the cost of the materials, operations, and other elements that go into the manufacture, sale, and delivery of such containers, provided, however, that such cost data shall not consist exclusively of average (or weighted average) costs of two or more manufacturers and that the cost of any individual manufacturer shall not be so identified by name or otherwise in any trade association publication as to be made known to its competitors;

(e) exchanging information as to

(i) credit, and

(ii) specific current contracts for the sale of such containers for the sole purpose of avoiding interference with such contracts.

4. Nothing contained in this decree limits the right of a defendant to issue and circulate lists of current prices charged for its corrugated or solid fibre containers provided such lists are made available to the trade and competitors.

5. Nothing contained in this decree shall apply to

(a) any agreement between

(i) a manufacturer of such containers and its subsidiaries,

(ii) a manufacturer and companies associated through common ownership or operating management, or

(iii) the subsidiaries of any such manufacturer;

(b) the conduct of the individual business of any defendant;

(c) manufacture other than the fabrication of shipping containers out of corrugated or solid fibre board;

(d) operations or activities of the defendants outside the United States, its Territories and the District of Columbia, or to their operations or activities within the United States, its Territories and the District of Columbia, which relate exclusively to foreign countries;

(e) agreements or arrangements permitted by Section 1 of the Sherman Act as amended by the Act of August 17, 1937, commonly called the Miller-Tydings Act, or by the patent laws.

6. For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General or an Assistant Attorney general and on reasonable notice as to time and subject matter, be permitted (i) reasonable access, during the office hours of said defendants, to all books, ledgers, accounts, cor-

respondence, memoranda, and other records and documents in the possession or under the control of said defendants, relating to any of the matters enjoined by this decree, (ii) subject to the reasonable convenience of said defendants, and without restraint or interference from them, and subject to any legally recognized privilege, to interview officers or employees of said defendants, in the presence of counsel, regarding any such matters; and said defendants, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings in which the United States is a party or as otherwise required by law.

7. Jurisdiction of this action is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders or directions as may be necessary or appropriate in relation to the construction of or carrying out of this decree, for the modification thereof (including, without limitation, any modification upon application of said defendants, or any of them, required in order to conform this decree to any act of Congress enacted after the date of entry of this decree or to the laws or regulations of any State), for the enforcement of compliance therewith and the punishment of violations thereof.

Dated, April 23, 1940.

HENRY W. GODDARD
District Judge

WE HEREBY CONSENT to the entry of the foregoing decree:

UNITED STATES OF AMERICA

By THURMAN ARNOLD

Assistant Attorney General

JOHN T. CAHILL

United States Attorney

FRANK H. ELMORE, JR.

CHRISTOPHER DEL SESTO

MANUEL M. GORMAN

SAMUEL E. NEEL

Special Assistants to the Attorney General

**NATIONAL CONTAINER ASSOCIATION,
AMERICAN BOX BOARD COMPANY,
DOWNING BOX COMPANY,
FEDERAL CONTAINER COMPANY,
FORT WAYNE CORRUGATED PAPER CO.,
GAYLORD CONTAINER CORPORATION,
HUMMEL & DOWNING COMPANY,
INLAND CONTAINER CORPORATION
(INDIANA),**

**IOWA FIBRE BOX COMPANY,
THE JACKSON BOX COMPANY,
F. J. KRESS BOX COMPANY,
LAWRENCE PAPER COMPANY,
LOY-LANGE BOX COMPANY,
NIAGARA CORRUGATED CONTAINER CO.,
INC.,
ST. LOUIS BASKET & BOX CORP.,
SCHARFF-KOKEN MANUFACTURING CO.,
SUPERIOR PAPER PRODUCTS CO., and
WARASH FIBRE BOX COMPANY,**

By WEBSTER & GARSIDE

Their Attorneys

CONTAINER CORPORATION OF AMERICA,

By SIMPSON THACHER & BARTLETT

Its Attorneys

EDDY PAPER CORPORATION,

KIECKHEFER CONTAINER CORPORATION,

and

ROCHESTER FOLDING BOX COMPANY,

By PARKER NEWHALL

LARKIN, RATHBONE & PERRY

Their Attorneys

ROBERT GAIR COMPANY, INC.,

By LARKIN, RATHBONE & PERRY

Its Attorneys

HINDE & DAUGH PAPER COMPANY,

By CHARLES E. FROHMAN

WEBSTER & GARSIDE

Its Attorneys

NATIONAL CONTAINER CORPORATION

(DEL.),

By SAUL & MARSHALL M. BERNSTEIN

Its Attorneys

THE STEVENSON CORPORATION,

By WISE, CORLETT & CANFIELD

Its Attorneys

WALDORF PAPER PRODUCTS Co.,

**By MITCHELL, TAYLOR, CAPRON &
MARSH**

Its Attorneys

EXHIBIT IIIHOURS & EARNINGS

Fibre Box Industry, as published in the
Fiber Box Association Statistical Yearbooks

	Hourly Earnings Total	Payroll Per M Sq. Ft. All Plants
1955	\$ 1.908	\$ 2.27
1956	2.011	2.33
1957	2.107	2.42
1958	2.198	2.39
1959	2.280	2.47
1960	2.324	2.46
1961	2.455	2.53
1962	2.529	2.53
1963	2.605	2.56

Wholesale Price Index of Paper and Allied Products**Bureau of Labor Statistics****U.S. Dept. of Labor****1957-59 = 100**

1955	91.1
1956	97.2
1957	99.0
1958	100.0
1959	101.0
1960	101.8
1961	98.8
1962	100.0
1963	99.2

Wholesale Price Index of Commodities other than Farm Products and Food

Bureau of Labor Statistics

U.S. Dept. of Labor

1957-59 = 100

1955	92.4
1956	96.5
1957	99.2
1958	99.5
1959	101.3
1960	101.3
1961	100.8
1962	100.8
1963	100.7

Wholesale Price Index of General Purpose Machinery and Equipment
Bureau of Labor Statistics

U.S. Dept. of Labor

1957-59 = 100

1955	83.2
1956	91.6
1957	97.9
1958	99.4
1959	102.7
1960	103.8
1961	102.8
1962	103.3
1963	103.8

Wholesale Price Index of all Machinery and Equipment**Bureau of Labor Statistics****U.S. Dept. of Labor****1957-59 = 100**

1955	85.8
1956	92.1
1957	97.7
1958	100.1
1959	102.2
1960	102.4
1961	102.1
1962	102.3
1963	102.2

Industrial Production Index for Manufacturing
Board of Governors of the Federal Reserve System

1957-1959 = 100

1955	97.3
1956	100.2
1957	100.8
1958	93.2
1959	106.0
1960	108.9
1961	109.7
1962	118.7
1963	124.9

Union Yarn Mills
(Jacksonville, Ala.)

- DX 1000 4/24/61: Talked to Henry Miller, Mgr. He showed me Owen-Ill price \$960/M and Southern Container [corrugated container manufacturer] price \$939/M. They use 1750 boxes per week. Said he would split the business if we would come up with a competitive price to Owen-Ill. Said he would not buy from Southern. They are in process of doubling their business. /s/Lloyd Duncan, Salesman.
- DX 1001 5/8/61: Talked to Henry Miller. He said he had a price of \$925 from Owen-Ill. /s/Lloyd Duncan, Salesman.
- DX 1002 5/15/61: Henry Miller, Mgr., signed order for 10 T/L. /s/Lloyd Duncan, Salesman.
- DX 1003 7/10/61: Henry Miller said Owen-Ill had cut their price to 770.70. and Container Corp. had a price of 773.00. /s/Lloyd Duncan, Salesman.
- DX 1004 7/28/61: Talked to Henry Miller. He said he would take T/L on our floor. Said he wanted to give us Aliceville business, but he couldn't pay us 917.00 and someone else 770.00. Talked to Mr. Tharpe [St. Joe General Mgr.] on the phone about this. /s/Lloyd Duncan, Salesman.
- DX 1005 9/25/61: Luke Houston [St. Joe Sales Mgr.] and I talked to Henry Miller, Mgr. He told us we could reenter order at \$770.00 since he had Mr. Tharpe's [St. Joe General Mgr.] letter which guaranteed price for rest of year. /s/Lloyd Duncan, Salesman.
- DX 1006 1/23/62: Part 1 of 1. Talked with Mr. Miller, told him effective March 10, 1962 our price would be \$847 per M.. He said we would certainly lose the business. He said if we lose it this time we will have a hard time getting it back even if our price is same. Mr. Miller said Jim Wood (Mengle) [Container Corp. division] took order last week for business for remainder of 1962 at

\$770 per M for Jacksonville Mill. Said Owen-III has not raised price. Mr. Miller showed me copy of order he gave Mengle. (See other page).

Part 2 of 1. Order to Mengal from Union Yarn Mills read as follows:

January 15, 1962

Requirements for #2 corrugated boxes 41½ x 19 x 27 3" OL 350 test, DW. \$770.60 Per M for balance of 1962. To be released in truck or carload lots. Deliveries to either Jacksonville Ala. or Aliceville Ala. or both. Price subject to revision upon increase or decline in market. All shipments to be prepaid.

Addressed to: Container Corporation of America, P. O. Box 389, Chattanooga, Tennessee.

/s/Lloyd Duncan, Salesman.

DX 1007 3/12/62: Mr. Miller said if we raise our price to 847 and Container Corp does same thing he will go back to Owen-III is not going to raise their price. /s/Lloyd Duncan, Salesman.

DX 1008 6/28/62: Mr. Miller gave me this information yesterday. Tri State Container Corp. cut our price to \$760.00. He showed me invoice #7662 from Tri State dated April 24, 1962 car PRR 602224 Seals 9877/78 showing price of \$760.00/M. Mr. Miller said Tri State contacted Mr. L. L. McLin at Union Underwear Co. in Bowling Green, Kentucky. They purchased 10 C/L's from Tri State. These are specifications on invoice.

3" OL St. Pl. 350 DW

41 5/16 x 18 15/16 x 27 1/16. /s/Lloyd Duncan, Salesman.



DIX-60

November 8, 1955

Mr. Carter Holbrook,
Carolina Container Company,
High Point, North Carolina.

Dear Carter:

We have your memorandum concerning Raven Cotton Mills; and this is to advise that we have changed our records to show their price as being \$1122.20-M in 3,000 lots.

We will use this price until it has been determined that one of his regular suppliers has reduced it. If this happens, we shall take the necessary action to meet competitive prices.

Very truly yours,



C-2911

#39 NEW YORK

L. B. PITTS

#524 RICHMOND

AUGUST 17, 1961

CONFIDENTIAL

I TRIED TO REACH BOTH YOU AND ARBUTHNOT TODAY ON THE PHONE. IN FACT, I HAVEN'T BEEN ABLE TO REACH ARBUTHNOT IN TWO DAYS. THIS MAKES IT VERY DIFFICULT IN VIEW OF THE MARKET CONDITIONS. I WAS HOPEFUL THAT WE WOULD BE ABLE TO COMMUNICATE WITH SOMEONE IN NEW YORK AT ALL TIMES DURING THESE LAST FEW DAYS OF AUGUST.

BOTH WE AND SEVERAL OTHER COMPETITORS SEEM TO BE HAVING DIFFICULTY WITH MEAD OUT OF DURHAM. TO GIVE YOU A CONCRETE EXAMPLE, WE HAVE BEEN A MAIN SUPPLIER, AND MEAD HAS NOT BEEN SUPPLYING, A FIRM CALLED STONEVILLE FURNITURE COMPANY, STONEVILLE, NORTH CAROLINA. ON AUGUST 8 THEY FURNISHED THIS COMPANY WITH A PRICE SHEET SIGNED BY A MAN NAMED MANESS. THE ITEM WAS A TABLE 24 X 36. THEIR PRICE WAS \$224.95 PLUS \$26.50 SET-UP AGAINST OUR PRICE OF \$237.65 PLUS \$26.50. IN VIEW OF THIS IT IS GOING TO BE VERY DIFFICULT FOR US TO RAISE THE PRICE 10%. THIS ACCOUNT HAS BEEN ON A \$12.35 MULTIPLIER OVER TWO YEARS.

THIS TYPE OF WILD QUOTING WILL CERTAINLY ENDANGER, IF NOT KILL, OUR ANNOUNCEMENT TO RAISE PRICES 10% UNLESS WE LOSE ALL OF OUR BUSINESS. I AM HOPEFUL THAT THEY WILL NOT CONTINUE TO CUT PRICES THAT ARE BELOW PRESENT LEVELS IN VIEW OF OUR ANNOUNCEMENT TO RAISE PRICES 10%.

R. GROHER, JR.

RGJR/ew

BLIND COPY TO W. D. ARBUTHNOT, #39



CCC-2794

L. B. Pitts
39 New York

W. B. Beans
613 Martinsville

October 11, 1961

Competitive Information - Head Containers

I have appraised very carefully, due to necessity, in the past two months the activities of Head Container in the sales districts of 612 and 613.

It is becoming increasingly apparent that Head Containers in this area are not following a constructive pricing pattern and it is obvious as far as the knowledge of our accounts go that they are reluctant to raise any prices wherein they have a major position. They are not following any estimating manuals with which we are acquainted and which are used in this area. We find many instances in our accounts where they have cut prices in late September and even in October. They are not seeking any market information. In conclusion, they will go to any length to maintain their present volume and customers and are striving by any means necessary to improve their volume position.

Bassett Furniture Industries: We have prepared this account since August 8th to accept an increase of a minimum of 10%. We find however that there has been no indication from Head to this customer that prices will be increased effective January 1, 1962. It will be impossible for us to raise this account which is expecting and receptive to an increase on that date unless Head takes action immediately. This increase should have been announced prior to October 1st since styles and prices are being developed now by the furniture industry for their October show from which 1962 business is developed.

Carolina Enterprises, Tarboro, N.C.: This is one of our newest and most valued accounts which we had virtually 100% until early this year. There have been several price reductions in this account by Richmond Container, Owens-Illinois and last but not least, Head. Head quoted a lower level in this account on September 12th than our old prices which were in effect prior to September 1st. Repeated attempts to get this situation corrected since we have raised this account 10% across the board were without avail. The customer tells us as of Monday, October 9th, that Head's prices have been guaranteed for 90 days.

Stoneville Furniture Company: Here again, Head quoted in early September prices under our prices that were effective prior to September 1st. This account too was raised by the three suppliers approximately 10%. There is some indication that this situation has been corrected but we are not sure

1025

CCC-2995

L. B. Pitts
39 New York

W. B. Beams
613 Martinsville

October 11, 1961

Competitive Information - cont'd

since there is one vendor with prices in this account approximately 5% under the suppliers.

To sum up this report I am attaching a copy of three memos from our Mr. R. L. Burrows indicating that the above information is being supplemented on moving and storage accounts, Grifton Garment Company, Grifton, N.C. and Dorothy Curtain Company of Rocky Mount, N.C.

W. B. Beams

WBB:rw

cc:

W. D. Arbuthnot 39
Robert Groner, Jr. 524

ccc-2875

PLAINTIFF'S
EXHIBIT47

SOUTHERN DISTRICT

DISTRICT SALES MANAGERS

1523 RICHMOND

JUNE 30, 1961

ATTACHED HERewith IS INFORMATION GIVEN TO ZONE 10 AND 11 FIDRE BOX ASSOCIATION MEETING AND IS FOR YOUR INFORMATION. YOU MAY READ IT TO YOUR OWN GROUP MEETINGS IF YOU SO DESIRE.

RGJr/ew

R. GROWER, JR.

"Continental Sales Policy"

ccc-2896

CONTINENTAL SALES POLICY

IN THE LIGHT OF THE RECENT ANTI-TRUST INVESTIGATIONS INTO THE ELECTRICAL INDUSTRY, OUR COMPANY HAS BECOME VERY MUCH CONCERNED WITH THE PROPER CONDUCT OF OUR BUSINESS. AS A RESULT, CERTAIN DEFINITE, CONCRETE POLICIES HAVE BEEN PUT FORTH BY OUR TOP MANAGEMENT. AMONG THESE THERE ARE DIRECT ORDERS TO ALL SALES PEOPLE TO BE VERY CAREFUL IN THEIR CONDUCT AND TO LIVE WELL WITHIN THE LAWS AND THE INTERPRETATION OF THE LAWS BY OUR COUNSEL. THIS MEANS THAT ANY INFORMATION OR CONVERSATIONS THAT ARE TO BE DESIRED BY ANYONE OTHER THAN CUSTOMERS SHALL BE CONFINED TO AREA GENERAL MANAGERS OR THEIR SUPERIORS.

WE ARE ALSO VERY MUCH CONCERNED WITH THE CHAOTIC PRICING CONDITIONS IN OUR INDUSTRY AND HAVE FORMULATED CERTAIN SALES POLICIES WHICH ARE PUBLIC INFORMATION, AND IN ORDER TO ALLOW ALL OF YOU TO UNDERSTAND THESE SALES POLICIES I WISH TO TAKE THIS OPPORTUNITY OF TELLING YOU THAT IN THE FIRST PLACE COMPETITION HAS, THROUGH INEFFICIENT AND INANE PRICING, ALREADY GIVEN TO THE TRADE MORE THAN THE RECENT PRICE REDUCTIONS IN RAW MATERIALS. WE DO NOT PROPOSE TO DEVIATE FROM A PRICING POLICY THAT WILL PRICE ALL OF OUR CAN BOXES AT THE CAN BOX PRICE LIST ORIGINALLY PUT FORTH BY OWENS-ILLINOIS. WE WILL NOT OBLIGATE OURSELVES ON FIXED PRICES FOR A PERIOD OF LONGER THAN 90 DAYS. WE WILL NOT SELL OUR PRODUCT, EVEN UNDER COMPETITIVE CONDITIONS, AT LESS THAN OUR TRUE COST INCLUDING OVERHEAD, AND WE FIGURE THIS TO BE ROUGHLY \$175.00 PER TON. WE WILL ENDEAVOR TO MERCHANDISE OUR PRODUCT AT A PROFIT AND WE ARE GOING TO TRY TO GET FROM \$200.00 PER TON UP FOR ALL OF OUR CORRUGATED CARTONS.

IT IS TO BE HOPED THAT OTHERS IN OUR FIELD WILL DECIDE TO DO AWAY WITH THE RUINOUS, LOW COST PRICING THAT THEY HAVE BEEN INDULGING IN FOR SOME TIME. I THINK MOST OF YOU KNOW ME OVER A PERIOD OF YEARS AND REALIZE THAT WE DO NOT INDULGE IN DOUBLE TALK. IT IS FURTHER REALIZED, I HOPE, THAT SOME OF THE PRICING THAT HAS BEEN GOING ON IN THE SOUTHEAST SHOULD BE IMMEDIATELY STOPPED SINCE IT REPRESENTS, REGARDLESS OF HOW THESE PEOPLE MIGHT RECEIVE THEIR BOARD WHETHER AT MARKET OR BELOW MARKET, A LOSS. WE CONSIDER THAT THE CHARGES PUT FORTH SEVERAL YEARS AGO IN THE CAROLINA MANUAL ARE FAIR AND WE ARE GOING TO TRY TO USE THESE ON ALL OCCASIONS. WE DO NOT PROPOSE TO BLINDLY TAKE THE WORD OF

CCC-2897

PURCHASING AGENTS AS TO COMPETITIVE PRICING. THIS POINT HAS LED PRICES DOWN DRASTICALLY IN SOME AREAS. WE FEEL THAT IT IS VERY BAD FOR OUR BUSINESS TO GO AROUND SHOUTING ABOUT RECENT PAPERBOARD REDUCTIONS. WHERE WE ARE NOT PRESENTLY SERVING AN ACCOUNT, WE WILL ENDEAVOR TO FIND A FAST-MARKET BEFORE QUOTING BLINDLY.

ANYONE WHO HAS ANY REAL OR IMAGINARY PROBLEMS WITH OUR FIRM CAN CALL ME. HOWEVER, NONE OF MY DISTRICT SALES MANAGERS NOR OTHER SALES PERSONNEL WILL BE AVAILABLE TO DISCUSS PRICING. WE PROPOSE THAT ALL DISCUSSIONS SHALL BE STRICTLY LEGAL ACCORDING TO THE INTERPRETATION OF THE LAW BY MALCOLM WHITE. WHEN I AM NOT AVAILABLE DUE TO TRAVELING, MR. ARBUTHNOT, SALES MANAGER FOR OUR CORRUGATED DIVISION, IS AVAILABLE AT MURRY HILL 2-1300 IN NEW YORK CITY.

INTER-OFFICE COMMUNICATION

FROM ATLANTA

PLAINTIFF'S
EXHIBIT

48

To Mr. J. P. Tarantino, Jr. Date July 31, 1961
 At Tampa From Lee J. Ross
 Subject PRICE INCREASE

C. J. Ross
 As outlined in your conversation of last Friday morning, the following information was given to Paul Claus in San Francisco.

As per my letter to you of July 26, the statement as outlined was read by me to the Fibre Box Association. Inland Container also made a statement advising that there was a letter in the mail to their customers that prices would be increased a minimum of 10% on August 15.

During the meeting a phone call was received from Bill Diggs of St. Regis, and he stated that he felt his company would also support this advance in prices. No other comment was made by the representatives in attendance.

The following companies were represented:

Inland Container
 Dixie Container
 Mead
 Mengel

Continental Can
 Union Bag
 Maxwell Bros.
 H. & D.

Warehouser
 International Paper

Not in attendance:

Owens Illinois
 Carolina Container
 Tri-State

Container Corp.
 St. Regis
 Mead-Atlanta

We held a sales meeting today in Atlanta of the Atlanta sales personnel, and the price increase procedure was outlined in full.

LJR:sm



CCC-2440

OPR I WANT CONF CALL MADE TO FOUR PLACES CAN YOU TAKE THIS

OK

JN 196

NO288

AT445³

TY R661 AND THAT I WAS NOT SUPPOSE TO BE IN THERE

OK CAN I CUT OFF

YES THUO

CCC 524 RICHMOND GA PLS

RDY ON CONF TO ALL STAS PLS ANNC ON ROLL CALL

MIN PLS OPR

MIN PLS

OK GO AHEAD WITH ROLL CALL

EW ORLEANS READY

JACKSON JN 196 RDY ATL HEREP

TYLER RDY

THIS IS RICHMOND 848 TO ALL DISTRICT SALES MGRS FROM SOUTHERN
DISTRICT MGR 8-8-61 2-00 P M

NOTICE OF ADVANCE PRICES 9/1/61 SHOULD BE MAILED TO EVERY ACTIVE
ACCOUNT ON YOUR BOOKS IMMEDIATELY. A LIST OF THE ACCOUNTS TO WHOM
THIS NOTICE IS MAILED SHOULD BE COMPLIEDXXX COMPLIED.

COPIES OF THE LIST TOGETHER WITH A C XXX COPY OF OUR ANNOUNCEMENT
SHOULD BE CIRCULARIZED FULLY, SINCE THIS CAN BE MADE PUBLIC INFORMATION.

IF ANYONE DOES NOT UNDERSTAND THIS TELETYPE PLEASE PHONE ME

SIGNED R GRONER JR

TA U PLEASE ACK IN ORDER

RECD NEW ORLEANS

RCD JACKSON RECD ATLANTA

RECD TYLER

TH U DISC

V

V



5.9

MEA # 00744



Mr. David J. Bloom
 c/o Mead-Atlanta Paper Co.
 950 W. Marietta Street, N.W.
 Atlanta 2, Ga.

AUG 11 1958

CORRUGATED CONTAINER



DIVISION OF
 CONTINENTAL CAN COMPANY, INC.
 801 COOLIDGE STREET, P. O. BOX 324, NEW ORLEANS 8, LA.

FORM 101 5-58

MEA #00744

To our customers

Effective with September 1st shipments, our prices on corrugated fibreboard containers and allied products will be increased a minimum of 10%. The recently announced increase in the price of semi-chemical corrugating medium effective September 1st and increases in other manufacturing cost which have been absorbed for the past four years make this necessary.

Contractual prices will be increased accordingly as soon as the terms of the contracts permit. Published price lists are being reviewed for revision.

We thank you for your patronage and your continued appreciation of our problems as one of our suppliers.

August 7, 1961

CONTINENTAL



CAN COMPANY

August 9, 1961.

We have advised the attached list of customers of the price increase in compliance with the enclosed card.

Continental Can Company, Inc.,
Corrugated Container Division.

A to Z Paper Company
Acme Distributing Company
Air Control Products of Louisiana
Alexandria Bedding Co.
All South Record Dist. Company
American Box & Tag Company
American Brewing Company
American Can Company
American Manufacturing Corp. Inc.
American Metal Works, Inc.
American Pad & Textile Company
American Standard
Amos C. Harris Can Company
Mr. Tony Ancona
Anheuser Busch, Inc.
Animal Trap Company of Mississippi
Animatic Animal Care Prod., Inc.
Arbo Products
Armstrong Contracting & Supply Co.
Art-Vertising Displays
Associated Distributing Co.
Atlas Lubricant Corp.
Mr. Calvin J. Authement
Avoncraft Construction Co.
Bagert Cleaners
Bagur Southern Souvenir Mfg. Co.
Mike Baker Brick Co.
Barq's Inc.
Bartwell, Inc.
Bayou Candy Company
Harry L. Beeson Eggs
Mr. Earl Bergeron
H. J. Bergeron Pecan Shelling Plant
Better Brands, Inc.

Bienville Furniture Mfg. Co.
 Billups Wholesale Supply Co.
 Bischoff Brothers Seafood Co.
 Bland Banana Company
 Blue Ribbon Cleaners
 Bluff Creed Industries
 J. H. Bonek & Co. Inc.
 A. J. Bordelon Packing Co.
 The Borden Company
 Brandt Corporation
 Bréaux & Daigle Fish Co.
 Brennan's Pre-Pared Potato Company
 Brown-Miller Company
 Brown-Roberts Hardware & Supply Co. Ltd.
 Brown's Velvet Dairy Products
 Building Specialties
 C & F Packing Company
 C & W Transfer & Storage
 Cajun Chef Products
 Carrtone Laboratories
 Cascade, Inc.
 The Celotex Corporation
 Claitor's Book Store
 Clean Linen Service
 Coca Cola Company
 Colonial Macaroni Mfg. Co.
 Colonial Molasses Co. of La.
 Colonial Sugars Company
 Consolidated Companies, Inc.
 Continental Can Co. Inc., Metal Division
 Conway Woodworking Company
 Cotton Bros. Baking Co.
 Cotton Products Company, Inc.
 Coudrain Novelties
 Crane Company
 Crawford Wholesale Florist & Supplies, Inc. BR.
 Crawford Wholesale Florist & Supplies, Inc. NOLA
 Crescent Banana Sales
 Crescent Bed Co. Inc.
 Crescent City Gun Club
 Crescent Electronics
 Crescent Memorial Service, Inc.
 Crosby Forest Products

Cutcher Canning Company
Cute Togs of New Orleans, Inc.
Dameron Pierson Co. Ltd.
Dauterive Appliance & Furniture Co.
Dedeaux Packing Company
Deep River Poultry
Deep South Candle Co.
Delta Match Corp.
Delta Petroleum Co. Inc.
Charles Dennery Inc.
Dezauche & Sons
Dickey Foods, Inc.
Dixie Brewing Co. Inc.
Dixie United, Inc.
Dixon Plywood Corp.
Dohmann & Franchebois
Dow Chemical Co.
Drake, Thompson & Co. Inc.
Drew Blan Records
Dundee Tailoring Co.
Steven Dupuis & Bros.
Duralast Products Corp.
Durhams Wholesale Distributors
Effo Banana Sales Corp.
Elmer Candy Company
Elmer's Find Foods
Estorge Drug Co.
Evans Cooperage Co.
F.M.C. Corp.
Fairco Export Company
Falstaff Brewing Company
Famous Sternberg Inc.
Faulk's Duck Call Co.
Florida Jalousies of Louisiana, Inc.
Ford Div. Ford Motor Co.
Foster Aluminum
Foster Canvas Products Co. Inc.
Franklin-Printing Co.
Frey Bros. Inc.
L. A. Frey & Sons, Inc.
Friedrichs Mfg. Co.
Garsaud Fine Foods
Gator Distributors, Inc.

Gemtone, Inc.
General Beverage Distributor
General Marine Corp. (Boatel)
Genuine Parts Co.
Georgia Pacific Corp.
Gerhardt's Inc.
Glenbrook Laboratories
The Glidden Company
Golden Gate Mfg. Co.
Goodman & Beer
Gordy Salt Co.
W. R. Grace & Co. Polymer Chem. Div.
Graham Seafood Company
Grand Caillou Packing Co.
Great Southern Wirebound Box Co.
Gulf Corporation
Gulf Cotton Co. Inc.
Gulfport Glass Corp.
Gulfport Quick Freeze
Gulf States Asphalt
Gulf Seafood Co.
Haas Davis Packing Co.
Halco Lighting Mfg. Co.
Hall Drum
Hammond-Baton Rouge Brick Co.
Hardy Brothers
C. V. Harold Rubber Co.
E. J. Hart Co. Ltd.
Hausmann Jewelry Co.
Hawkins Distributing Company
Heebe's Bakery Inc.
Hemisphere International Corp.
Henderson Sugar Refinery Co.
Hill Hentschel Co.
Hillyer-Deutsch-Edwards, Inc.
D. H. Holmes Co. Ltd.
George A. Hormel & Company
Humble Oil & Refining Co. Inc.
Huval Baking Co. Inc.
Ingram Oil Company
Inland Steel Container Co.
Industrial Electric Inc.
International Aluminum Corp.

International Harvester Company
 International Lubricant Corp.
 International Van Service, Inc.
 Ipik Plywood Company
 J & M Beverage Co.
 Jacobs Candy Company
 Jack's Cookie Corporation
 Jackson Brewing Company
 Javelin Boats, Inc.
 Jones & Laughlin Steel Corp.
 Johns-Manville Products Corporation
 Juval Manufacturing Company
 Kaiser Aluminum & Chemical Corp.
 Kalvar Corporation
 Kohlmann Box Company, Inc.
 Krim-Ko Corporation
 Hubert Lafont Shrimp Co.
 Lally, Berthelson & Welsh
 La-Mo Refractory Supply Company
 H. W. Lay & Company
 Le Cour Corporation
 Lengsfeld Brothers, Inc.
 Lighthouse for the Blind of New Orleans
 Louisiana Coffee & Spice Company
 Louisiana Department of Agriculture & Immigration
 Louisiana Department of Highways
 Louisiana Garment Manufacturing Co. Inc.
 Louisiana Hatcheries
 Louisiana State Board of Health
 Louisiana State Rice Milling Co.
 Louisiana State University
 Lumberton Manufacturing Co.
 Lykes Bros. Steamship Company, Inc.
 C. C. Lyons & Sons
 Magnolia Liquor Company, Inc.
 Mahler, Inc.
 Maison Blanche Company
 Malter Supply Company, Inc.
 Maritrop Trading Corporation
 Martin Bros.
 Ed Martin Seafood Company
 McComb Wood Products Company
 T. E. Mercer Dist. Co.

Mat-La-Ceramics, Inc.
 John Mayer Company
 Mid State Distributors, Inc.
 Mistretta & Sotile Candy Company
 Mobile Association of the Blind
 Monsanto Chemical Co.
 A. Montz
 Morgan City Freezer & Cold Storage
 John Morrell & Company
 Morrison Cleaners
 Morrison Merchandising Company
 Movie Star, Inc.
 Nat Buring Packing Company, Inc.
 National Food Products, Inc.
 National Gypsum Company
 National Sales, Inc.
 National Sugar Refining Co.
 Naugatuck Division, U.S. Rubber Company
 New Orleans Boxing Plant
 New Orleans Cuisine, Inc.
 New Orleans Import Co., Ltd.
 New Orleans Metal Company, Inc.
 New Orleans Sash & Door Company
 Newport Industries, Division of Heyden Chemical Corp.
 Newport Industries Company
 Nola Candle Company
 Nu Vent Awning Company
 Olin Mathieson Chemical Company
 Opelousas Sweet Potato Company
 Orleans Produce Company
 Ott's Pet Shop
 Ouilliber-Coffee Company
 Package Engineering Corporation
 Donald Palmer
 Pan American Furniture Company
 Parke Davis & Company
 A. T. Patton Meat Market
 Pelican Printing Company
 Pellerin Milnor Corporation
 Pendleton Lyons Moving & Storage
 Pittsburg Plate Glass Company
 Plastic Applicators, Morgan City
 Plastic Applicators, Houston

Plymouth Cordage Company
 Post Scripts, Inc.
 Products Research Service, Inc.
 Professional Pharmacy
 Pullen Molded Products, Inc.
 Quality Banana Company
 Quality Reconditioning Service
 Rudolph Ramelli
 Rausch Naval Stores
 Rayne Wholesale Grocers
 Real Kill Products Company, Division Cook Chemical, BR
 Real Kill Products Company, Division Cook Chemical, KC,
 Mo.
 Red Star Yeast & Products Co., Belle Chasse, La.
 Red Star Yeast & Products Co., Milwaukee
 William B. Reily & Co. Inc.
 William B. Reily & Co. Inc., Luzianne Instant Div.
 Reily Chemical Co.
 Renewed Auto Parts
 Reuthers Seafood
 Rickert & Laan, Inc.
 Ric Records, Inc.
 Robinson Canning Company
 Rosen Sanitary Wiping Cloth Company
 Royal Electronics
 The Ruberoid Co.
 J. H. Rutter-Rex Manufacturing Co. Inc.
 S & G Manufacturing Co.
 Sauye Bakers Supply Co.
 Sazerac Co. Inc.
 Schneller Service
 School Pictures, Inc.
 Schott & Co. Inc.
 Scott Paper Co.
 Seagrams Distillers Company
 Security Storage & Van Co. Inc.
 Shell Oil Co.
 Simplex Manufacturing Co.
 Sinclair & Valentine
 Slumber Shop
 Smith's Bakery, Inc.
 Snider's Poster Process Co.
 Southern Ford Tractor Corp.

Southern Paper Company
Southern Railway System
Southern Shell Fish Co. Inc.
Southern Tool & Equipment Co.
Southland Canning & Packing Company
Standard Coffee Co. Inc.
Standard Fruit Co.
Stanley-Rose Company, Inc.
Steel Stamping Inc.
Stelley Brothers Produce Company
Stevens Band Paper Company
Stokes Distributing Company
Bob Stone Cordage Company
F. Strauss & Sons
Sugar Bowl Dehydrating Company, Inc.
A. C. Suhren Corp.
Sunny South Distributors, Inc.
Sunrise Bakery Inc.
Superior Candy Co.
Superior Mills Division of B. V. D.
Swift & Company
The Texas Company
Thompson-Hayward Chemical Company
Thompson Packers
Dr. Tichenor Antiseptic Company
Topform, Inc.
B. F. Trappey's Sons, Inc.
William Twickler & Sons
United Rice Milling Company
Urania Lumber Co.
Vignes Bombet Co.
Viking Packing Co.
Ward Baking Co.
Weysham Bakery
Wiggins Manufacturing Co. Inc.
Wurzburg Bros. Incorporated
Zetz-Seven-Up Bottling Company

PLAINTIFF'S
EXHIBIT

54

W 21201

June 1961

Discussion regarding possible price increase
alternative methods

① Flat percentage increase across the board.

Pro

Easy to administer
Refuses need for communications
Easy enforcing

Con

Treats all accounts the same - both
high and low levels - thereby increasing
differentials,
which probably lead to a major change in
the accounts handled by each customer
because -

- ① Quaintness - Lack of support
- ② Tends to increase the importance
of differentials and shifting
within accounts.

W 21202

② Paper List or Formula

P.O.

Simplify communications
Establish a base

Con

A price list is generally a sailing -
Would be necessary, though, to
reduce some bills. Then could
increase - partly due to contracts,
large volume accounts, etc.
Prochance of a list being rejected at
this time. Deals will continue to
increase.

Don't know how to phrase in simple
enough form. - Flat per lb. of H
considered inadequate.

How would list be placed? - Must be
high enough to allow independents
to make a reasonable return.

6252

How much we handle quantity differentials?
Zone differentials.

U11 03353

W 21203

Relative published price of bond?

③ Select 10 accounts and announce
increase 2 or 3 weeks in advance.

Should know within a week what
they intend to do from their action
in the market place.

If successful - about a week later a
news item would be circulating something
to the effect that several major companies
had raised prices on whole selling prices

some fainter

X

67-52

UNI 03354



W 20821

7/28/61

CONFIDENTIALCONFIDENTIALPRICING POLICY

- (1) Notify all customers our price will be increased _____% (between 10% and 15%) effective on all shipments made after August 15th. *Av. 12%*

Priority

- (a) Accounts we share with people who have already announced.
- (b) Sheet Accounts.
- (c) Accounts in which we think we will have an opportunity to meet.
- (d) Others.

Because of our position in the southeast, we should immediately inform at least one of the very low priced accounts that we are increasing their price 14%, letting it be known to our competitors immediately after the fact.

- (2) Increase contract and special agreement accounts 10% as they terminate. Until they come up, honor existing levels. This does not mean that we shouldn't make a strong attempt to revise prior to termination because of general market conditions.
- (3) Hold new price guarantees to 30 days except where there has been a history of longer agreements. Limit all guarantees to not more than 90 days.
- (4) Do not make any aggressive move for the purpose of gaining tons until advised by New York.
- ✓ (5) Before reducing the new (+ 10% or more) price, make a reasonable attempt to confirm the guidance given by a buyer. It would be desirable to confirm all reductions of this nature.

W 03416

1/20/22

- (6) Honor orders now on the books which specify shipment after August 15.
- (7) Orders received now for shipment after August 15 are to be priced at least 10% above the last price.
- (8) Withdraw bids now in the hands of customers and prospects which have not been acted upon, making certain there are none still open on August 15.
- (9) Before signing new contracts, even at 10% higher level, fight for a market clause allowing negotiations to adjust price up as well as down on the basis of general market conditions.
- (10) Limit price conversations to text attached.
- (11) Report to either L. A. Wulff or F. E. Kneip daily between 3 P.M. and 4:30 P.M., your time, giving a summary of action for the day.

same form as p.

PLAINTIFF'S
EXHIBIT56

W 21204

LIMITATIONS WHICH HAVE BEEN PLACED ON TELEPHONE CONVERSATIONSHAVING TO DO WITH MARKET CONDITIONS*about 8/7***Example #1: Announcing Price Increase:**

"We have increased prices at XYZ account 10% effective with shipments on and after September 1. All items are included except the 1042 and 1154 boxes which went up 12%. The increase applies to all delivery points".

Example #2: Calling a Supplier for Market Information:

"May I have your most recent price on box 1042 in XYZ account? Please give me base price and setup separately, delivered to Hometown, Indiana. What cash discount terms apply? Does this price represent a recent increase? Is this a quotation or an invoice?"

Example #3: Answer to inquiry for our price levels in a given account:

"Our price on item 1042 is \$187.00 per M in lots of 5,000 delivered to Hometown, Indiana, less 1% 15 net 30. We last shipped the item at \$170.00 in a 5,000 lot on July 29".

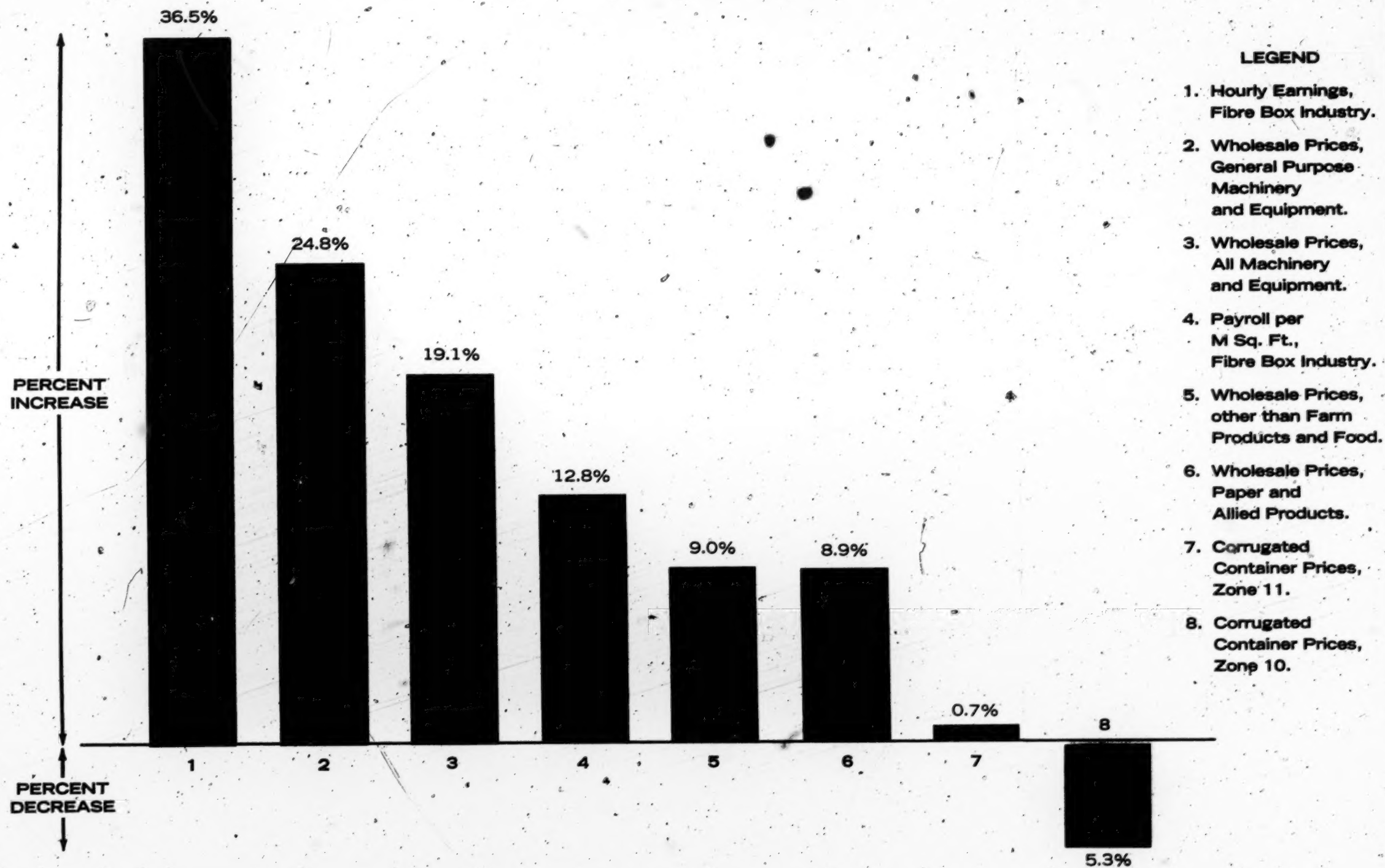
Example #4: Call to confirm reported price reduction:

"We have been told that your price has been reduced on item 1042 from \$187.00 to \$180.00 in XYZ account. Will you confirm this?"

Sales Managers only on the Phone.

No philosophizing.

**PERCENT INCREASE/DECREASE
VARIOUS PRICE OR COST INDICES
1955 vs. 1963**



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965, pages 1-10.

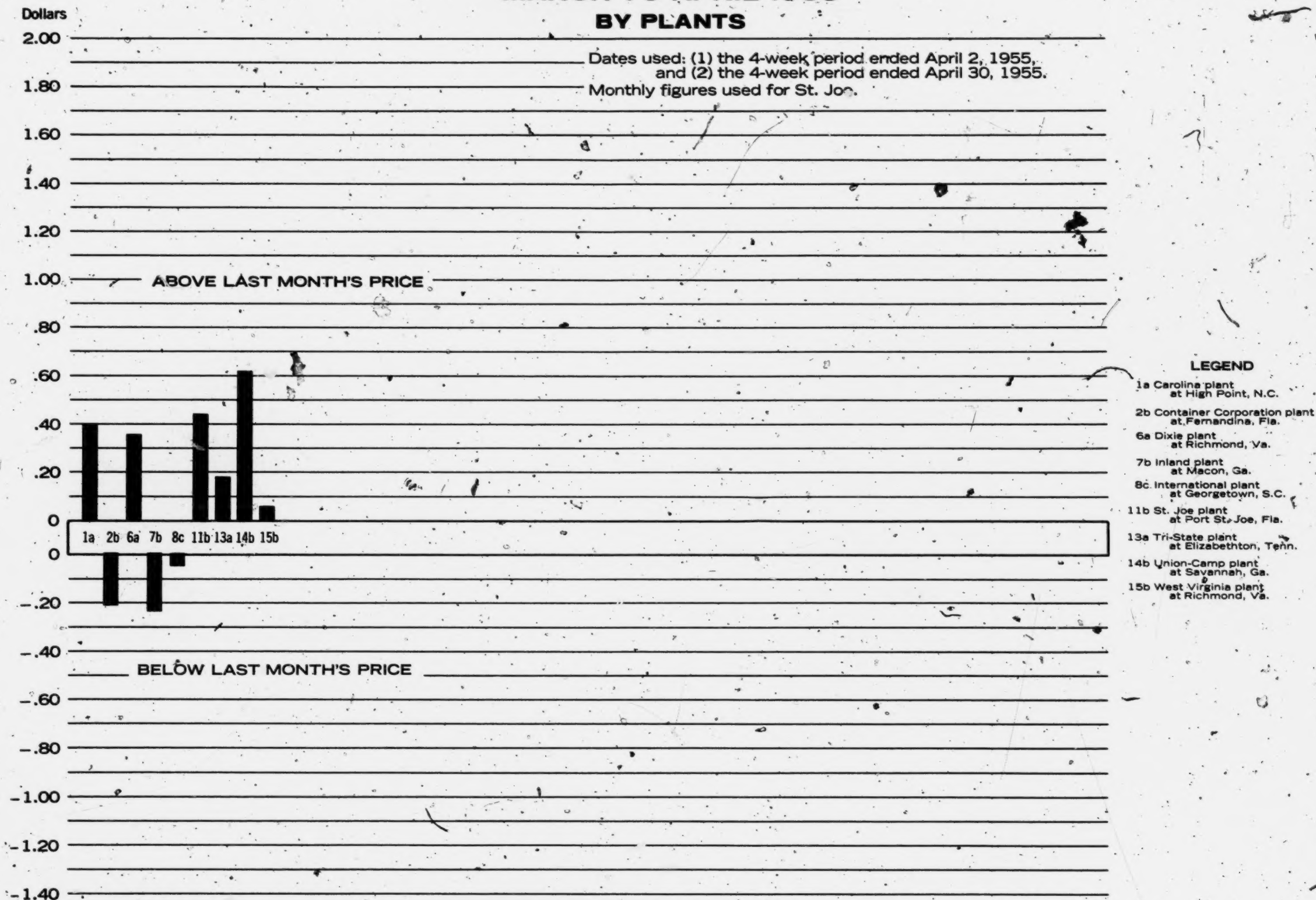
VARIANCE FROM LAST MONTH'S PRICE BY PLANTS

The charts in this section represent box price changes as shown in Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965, for each of the plants included in such Exhibit, between March and April and between September and October of each of the years 1955 to 1963. See also Paragraph 59 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.

For each company, except for St. Joe, included in these charts the figures represent 4-week averages for each plant. Each month is represented by the 4-week period ended closest to the last day of that month, except for 1963. In that year, figures are shown up to the date of the complaint (October 14, 1963) and hence the 4-week periods ended September 21, 1963 and October 19, 1963 are used. For St. Joe, its full calendar month figures are used throughout.

VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1955 BY PLANTS

Dates used: (1) the 4-week period ended April 2, 1955,
and (2) the 4-week period ended April 30, 1955.
Monthly figures used for St. Joe.



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1955 BY PLANTS

Dollars

2.00

1.80

1.60

1.40

1.20

1.00

ABOVE LAST MONTH'S PRICE

.80

.60

.40

.20

0

1a 2b 6a 7b 8c 11b 13a 14b 15b

0

-.20

-.40

-.60

-.80

-1.00

BELOW LAST MONTH'S PRICE

-1.20

-1.40

Dates used: (1) the 4-week period ended October 1, 1955,
and (2) the 4-week period ended October 29, 1955.
Monthly figures used for St. Joe.

LEGEND

- 1a Carolina plant at High Point, N.C.
- 2b Container Corporation plant at Fernandina, Fla.
- 6a Dixie plant at Richmond, Va.
- 7b Inland plant at Macon, Ga.
- 8c International plant at Georgetown, S.C.
- 11b St. Joe plant at Port St. Joe, Fla.
- 13a Tri-State plant at Elizabethton, Tenn.
- 14b Union-Camp plant at Savannah, Ga.
- 15b West Virginia plant at Richmond, Va.

Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1956 BY PLANTS

Dollars

2.00

1.80

1.60

1.40

1.20

1.00

ABOVE LAST MONTH'S PRICE

.80

.60

.40

.20

0

- .20

- .40

- .60

- .80

- 1.00

BELOW LAST MONTH'S PRICE

- 1.20

- 1.40

Dates used: (1) the 4-week period ended March 31, 1956,
and (2) the 4-week period ended April 28, 1956.
Monthly figures used for St. Joe.

LEGEND

1a Carolina plant
at High Point, N.C.

2b Container Corporation plant
at Fernandina, Fla.

2c Container Corporation plant
at Winston-Salem, N.C.

2d Container Corporation plant
at Chattanooga, Tenn.

2e Container Corporation plant
at Knoxville, Tenn.

2f Container Corporation plant
at Nashville, Tenn.

4a Crown Zellerbach plant
at Miami, Fla.

4b Crown Zellerbach plant
at Tampa, Fla.

4c Crown Zellerbach plant
at Atlanta, Ga.

4d Crown Zellerbach plant
at Greenville, S.C.

6a Dixie plant
at Richmond, Va.

7b Inland plant
at Macon, Ga.

8c International plant
at Georgetown, S.C.

11b St. Joe plant
at Port St. Joe, Fla.

13a Tri-State plant
at Elizabethton, Tenn.

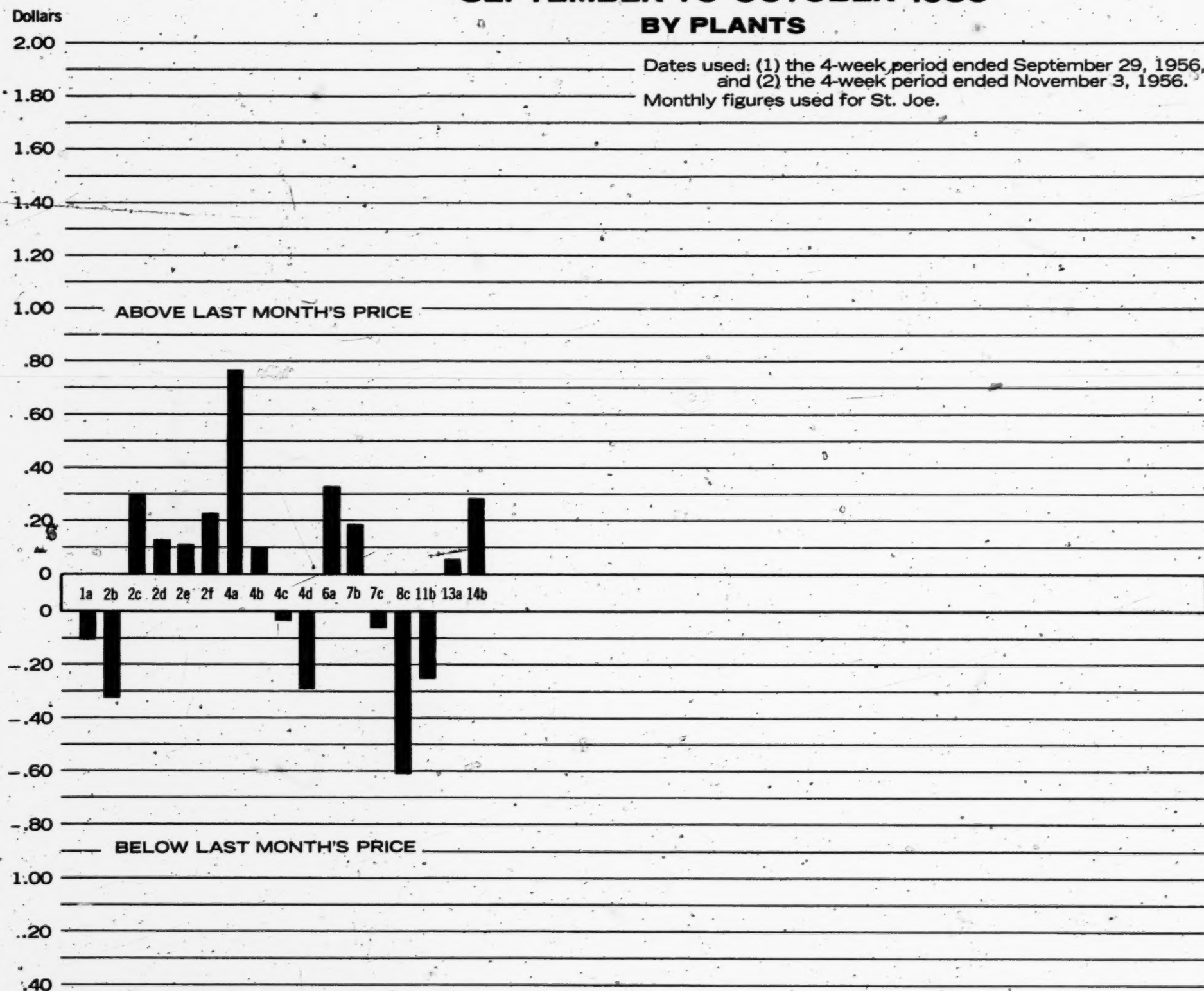
14b Union-Camp plant
at Savannah, Ga.

15b West Virginia plant
at Richmond, Va.

1a 2b 2c 2d 2e 2f 4a 4b 4c 4d 6a 7b 8c 11b 13a 14b 15b

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1956 BY PLANTS

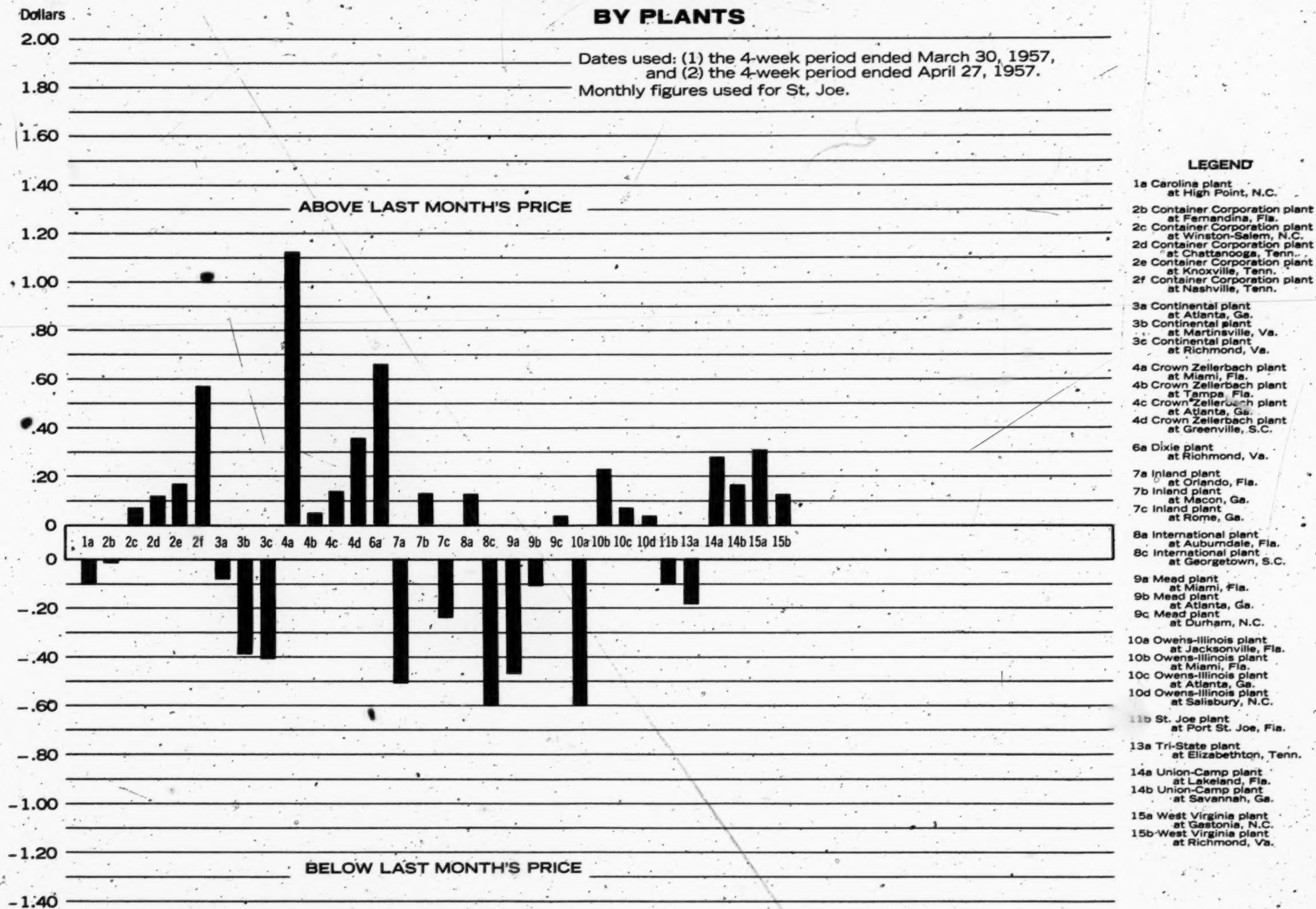
Dates used: (1) the 4-week period ended September 29, 1956,
and (2) the 4-week period ended November 3, 1956.
Monthly figures used for St. Joe.



LEGEND

- 1a Carolina plant at High Point, N.C.
- 2b Container Corporation plant at Fernandina, Fla.
- 2c Container Corporation plant at Winston-Salem, N.C.
- 2d Container Corporation plant at Chattanooga, Tenn.
- 2e Container Corporation plant at Knoxville, Tenn.
- 2f Container Corporation plant at Nashville, Tenn.
- 4a Crown Zellerbach plant at Miami, Fla.
- 4b Crown Zellerbach plant at Tampa, Fla.
- 4c Crown Zellerbach plant at Atlanta, Ga.
- 4d Crown Zellerbach plant at Greenville, S.C.
- 6a Dixie plant at Richmond, Va.
- 7b Inland plant at Macon, Ga.
- 7c Inland plant at Rome, Ga.
- 8c International plant at Georgetown, S.C.
- 11b St. Joe plant at Port St. Joe, Fla.
- 13a TriState plant at Elizabethton, Tenn.
- 14b Union-Camp plant at Savannah, Ga.

VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1957 BY PLANTS



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1957 BY PLANTS

Dollars

2.00

1.80

1.60

1.40

1.20

1.00

.80

.60

.40

.20

0

-.20

-.40

-.60

-.80

-1.00

-1.20

-1.40

Dates used: (1) the 4-week period ended September 28, 1957,
and (2) the 4-week period ended November 2, 1957.
Monthly figures used for St. Joe.

ABOVE LAST MONTH'S PRICE

BELOW LAST MONTH'S PRICE

LEGEND

- 1a Carolina plant at High Point, N.C.
- 2a Container Corporation plant at Lexington, Ky.
- 2b Container Corporation plant at Fernandina, Fla.
- 2c Container Corporation plant at Winston-Salem, N.C.
- 2d Container Corporation plant at Chattanooga, Tenn.
- 2e Container Corporation plant at Knoxville, Tenn.
- 2f Container Corporation plant at Nashville, Tenn.
- 3a Continental plant at Atlanta, Ga.
- 3b Continental plant at Martinsville, Va.
- 3c Continental plant at Richmond, Va.
- 4a Crown Zellerbach plant at Miami, Fla.
- 4b Crown Zellerbach plant at Tampa, Fla.
- 4c Crown Zellerbach plant at Atlanta, Ga.
- 4d Crown Zellerbach plant at Greenville, S.C.
- 6a Dixie plant at Richmond, Va.
- 7a Inland plant at Orlando, Fla.
- 7b Inland plant at Macon, Ga.
- 7c Inland plant at Rome, Ga.
- 8a International plant at Auburndale, Fla.
- 8c International plant at Georgetown, S.C.
- 9a Mead plant at Miami, Fla.
- 9b Mead plant at Atlanta, Ga.
- 9c Mead plant at Durham, N.C.
- 10a Owens-Illinois plant at Jacksonville, Fla.
- 10b Owens-Illinois plant at Miami, Fla.
- 10c Owens-Illinois plant at Atlanta, Ga.
- 10d Owens-Illinois plant at Salisbury, N.C.
- 11b St. Joe plant at Port St. Joe, Fla.
- 13a Tri-State plant at Elizabethton, Tenn.
- 14a Union-Camp plant at Lakeland, Fla.
- 14b Union-Camp plant at Savannah, Ga.
- 15a West Virginia plant at Gastonia, N.C.
- 15b West Virginia plant at Richmond, Va.
- 16b Weyerhaeuser plant at Tampa, Fla.

1a 2a 2b 2c 2d 2e 2f 3a 3b 3c 4a 4b 4c 4d 6a 7a 7b 7c 8a 8c 9a 9b 9c 10a 10b 10c 10d 11b 13a 14a 14b 15a 15b 16b

1.77

VARIANCE FROM LAST MONTH'S PRICE **MARCH TO APRIL 1958** **BY PLANTS**

Dollars

2.00

1.80

1.60

1.40

1.20

1.00

.80

.60

.40

.20

0

0

-.20

-.40

-.60

-.80

-1.00

-1.20

-1.40

Dates used: (1) the 4-week period ended March 29, 1958,
 and (2) the 4-week period ended May 3, 1958.

Monthly figures used for St. Joe.

ABOVE LAST MONTH'S PRICE

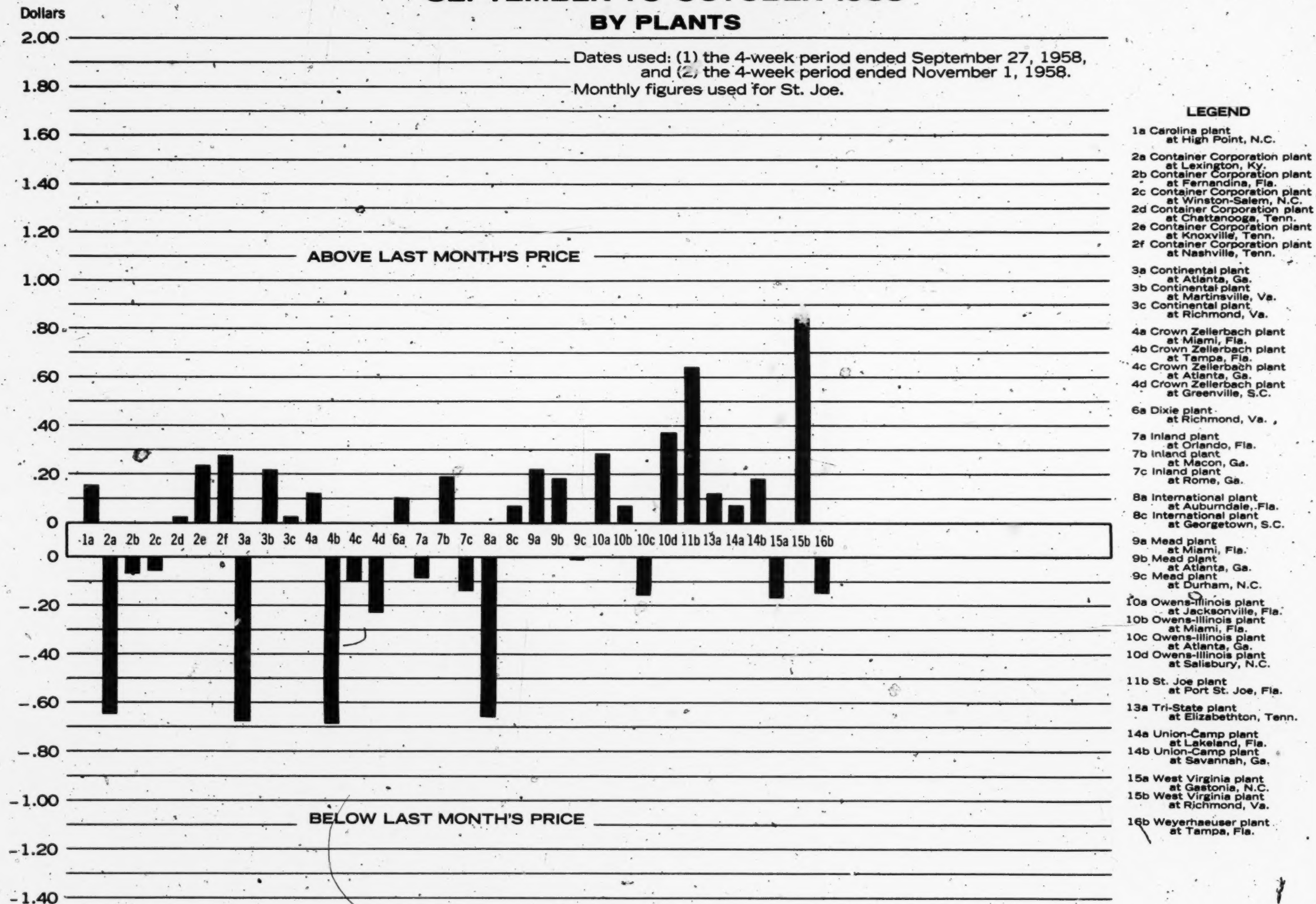
BELOW LAST MONTH'S PRICE

LEGEND

- 1a Carolina plant at High Point, N.C.
- 2a Container Corporation plant at Lexington, Ky.
- 2b Container Corporation plant at Fernandina, Fla.
- 2c Container Corporation plant at Winston-Salem, N.C.
- 2d Container Corporation plant at Chattanooga, Tenn.
- 2e Container Corporation plant at Knoxville, Tenn.
- 2f Container Corporation plant at Nashville, Tenn.
- 3a Continental plant at Atlanta, Ga.
- 3b Continental plant at Martinsville, Va.
- 3c Continental plant at Richmond, Va.
- 4a Crown Zellerbach plant at Miami, Fla.
- 4b Crown Zellerbach plant at Tampa, Fla.
- 4c Crown Zellerbach plant at Atlanta, Ga.
- 4d Crown Zellerbach plant at Greenville, S.C.
- 6a Dixie plant at Richmond, Va.
- 7a Inland plant at Orlando, Fla.
- 7b Inland plant at Macon, Ga.
- 7c Inland plant at Rome, Ga.
- 8a International plant at Auburndale, Fla.
- 8c International plant at Georgetown, S.C.
- 9a Mead plant at Miami, Fla.
- 9b Mead plant at Atlanta, Ga.
- 9c Mead plant at Durham, N.C.
- 10a Owens-Illinois plant at Jacksonville, Fla.
- 10b Owens-Illinois plant at Miami, Fla.
- 10c Owens-Illinois plant at Atlanta, Ga.
- 10d Owens-Illinois plant at Salisbury, N.C.
- 11b St. Joe plant at Port St. Joe, Fla.
- 13a Tri-State plant at Elizabethton, Tenn.
- 14a Union-Camp plant at Lakeland, Fla.
- 14b Union-Camp plant at Savannah, Ga.
- 15a West Virginia plant at Gastonia, N.C.
- 15b West Virginia plant at Richmond, Va.
- 16b Weyerhaeuser plant at Tampa, Fla.

1a 2a 2b 2c 2d 2e 2f 3a 3b 3c 4a 4b 4c 4d 6a 7a 7b 7c 8a 8c 9a 9b 9c 10a 10b 10c 10d 11b 13a 14a 14b 15a 15b 16b

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1958 BY PLANTS

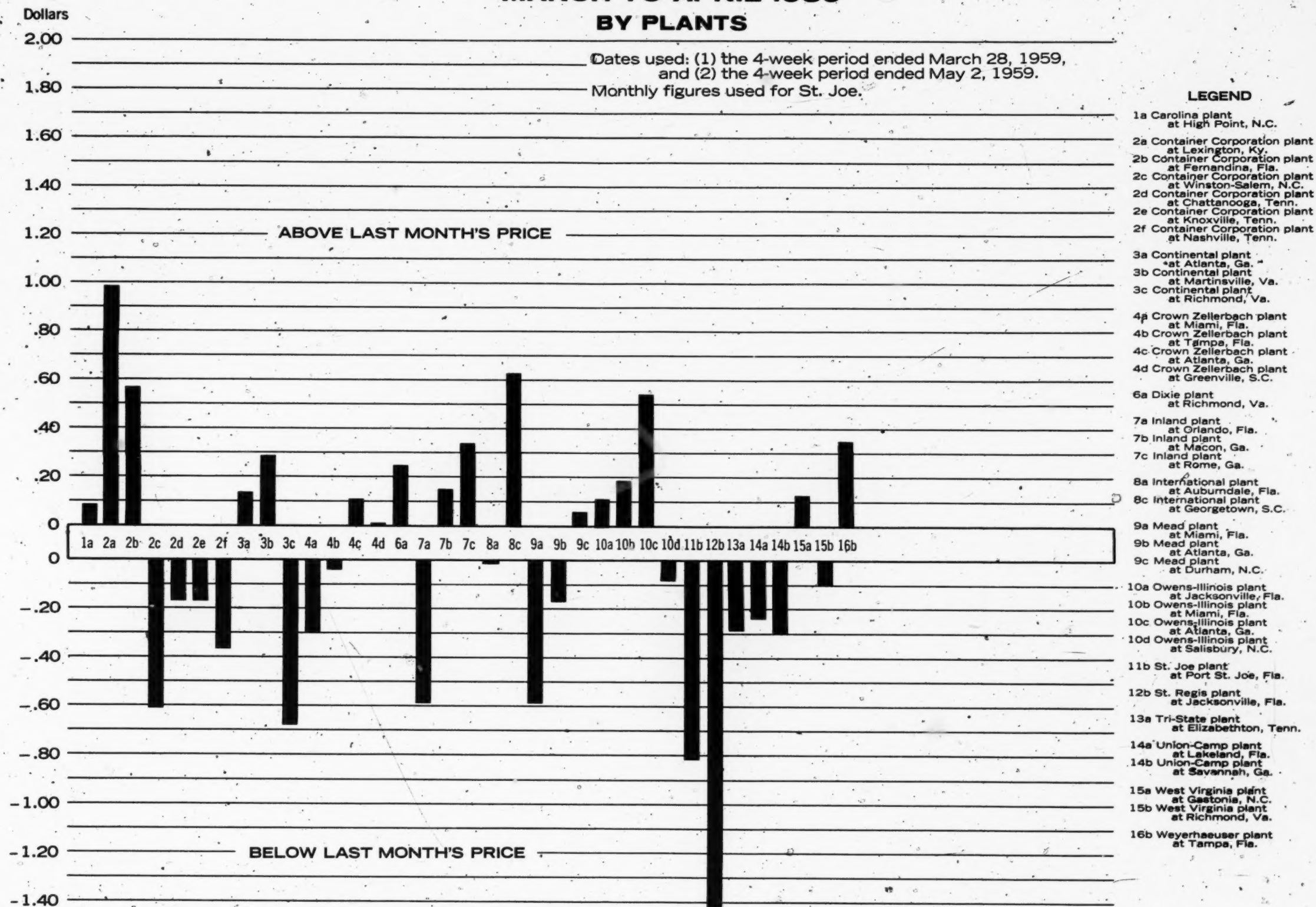


Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE **MARCH TO APRIL 1959** **BY PLANTS**

Dates used: (1) the 4-week period ended March 28, 1959,
 and (2) the 4-week period ended May 2, 1959.

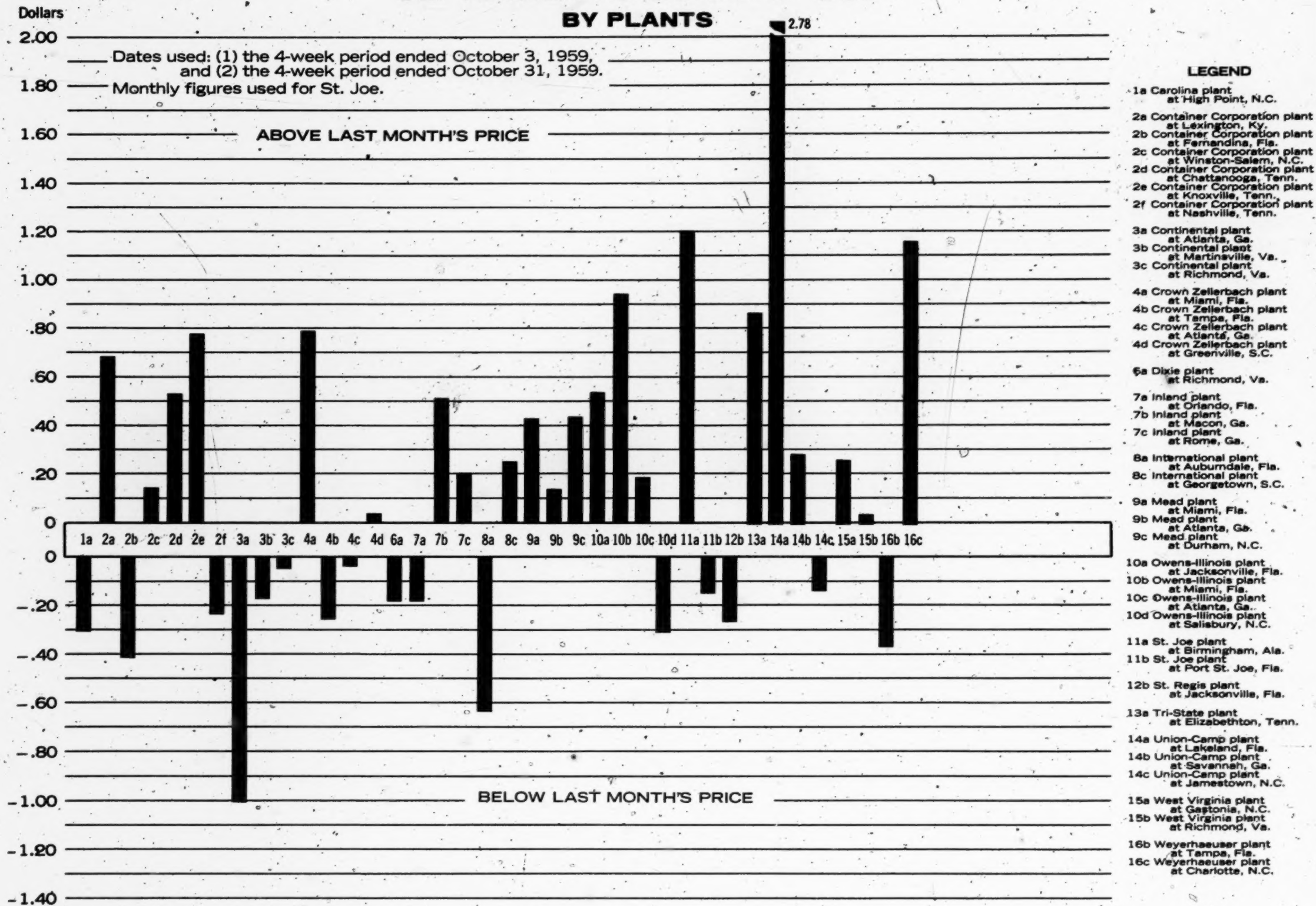
Monthly figures used for St. Joe.



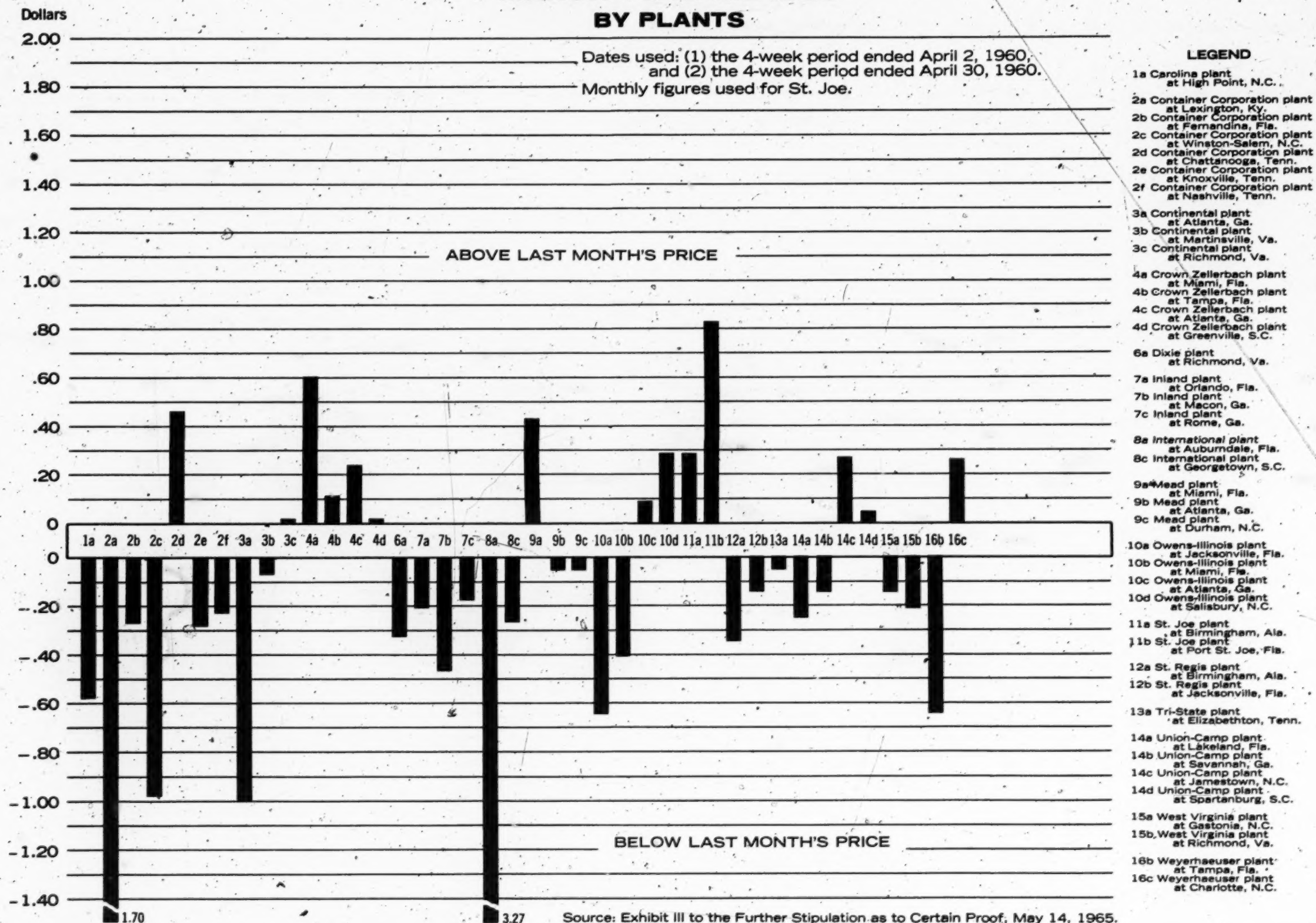
Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1959

BY PLANTS



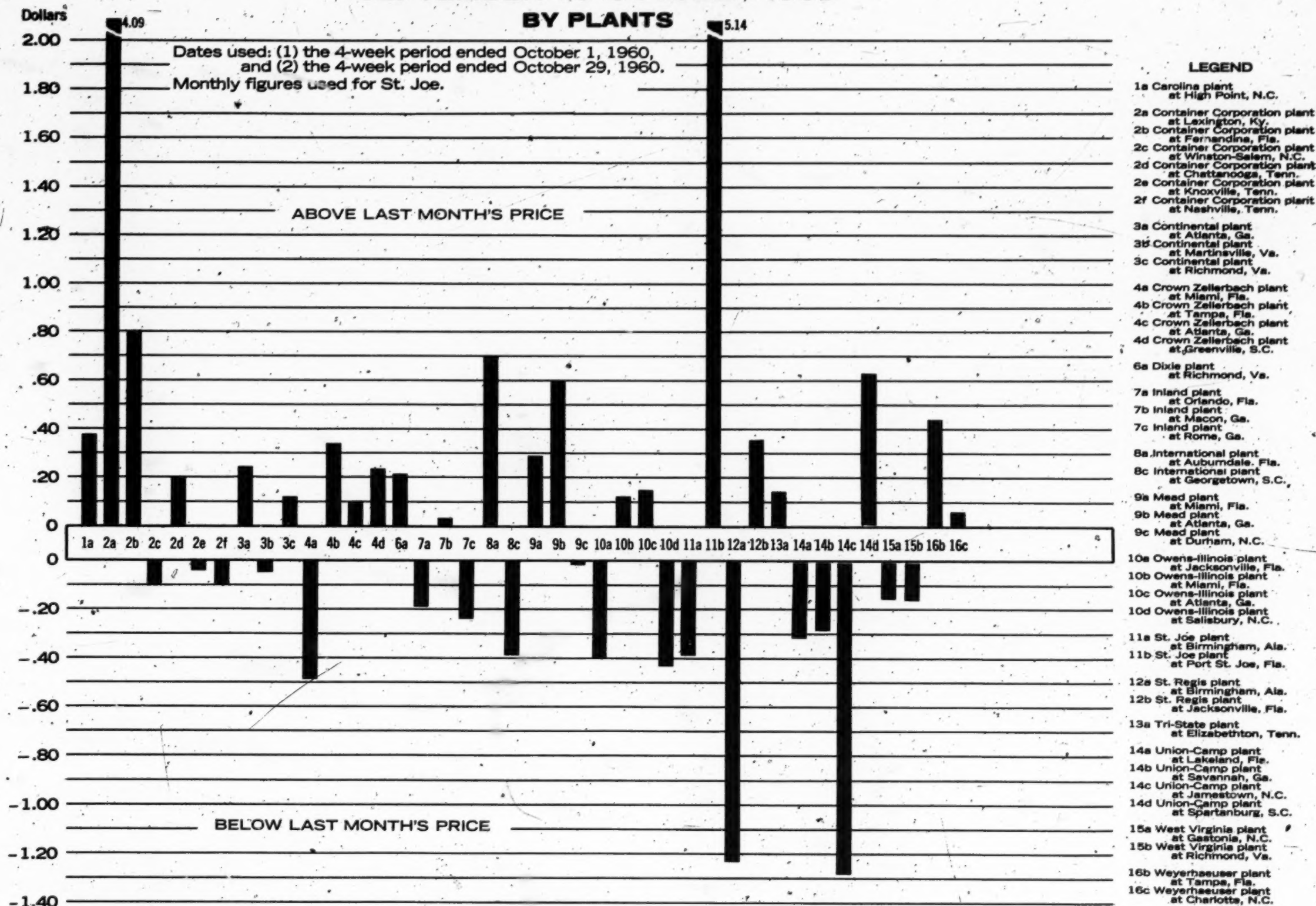
VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1960 BY PLANTS



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1960

BY PLANTS



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1961 BY PLANTS

Dollars

2.00

1.80

1.60

1.40

1.20

1.00

.80

.60

.40

.20

0

- .20

- .40

- .60

- .80

- 1.00

- 1.20

- 1.40

Dates used: (1) the 4-week period ended April 1, 1961,
and (2) the 4-week period ended April 29, 1961.
Monthly figures used for St. Joe.

ABOVE LAST MONTH'S PRICE

BELOW LAST MONTH'S PRICE

LEGEND

- 1a Carolina plant at High Point, N.C.
- 2a Container Corporation plant at Lexington, Ky.
- 2b Container Corporation plant at Fernandina, Fla.
- 2c Container Corporation plant at Winston-Salem, N.C.
- 2d Container Corporation plant at Chattanooga, Tenn.
- 2e Container Corporation plant at Knoxville, Tenn.
- 2f Container Corporation plant at Nashville, Tenn.
- 3a Continental plant at Atlanta, Ga.
- 3b Continental plant at Martinsville, Va.
- 3c Continental plant at Richmond, Va.
- 4a Crown Zellerbach plant at Miami, Fla.
- 4b Crown Zellerbach plant at Tampa, Fla.
- 4c Crown Zellerbach plant at Atlanta, Ga.
- 4d Crown Zellerbach plant at Greenville, S.C.
- 6a Dixie plant at Richmond, Va.
- 7a Inland plant at Orlando, Fla.
- 7b Inland plant at Macon, Ga.
- 7c Inland plant at Rome, Ga.
- 8a International plant at Auburndale, Fla.
- 8c International plant at Georgetown, S.C.
- 9a Mead plant at Miami, Fla.
- 9b Mead plant at Atlanta, Ga.
- 9c Mead plant at Durham, N.C.
- 10a Owens-Illinois plant at Jacksonville, Fla.
- 10b Owens-Illinois plant at Miami, Fla.
- 10c Owens-Illinois plant at Atlanta, Ga.
- 10d Owens-Illinois plant at Salisbury, N.C.
- 11a St. Joe plant at Birmingham, Ala.
- 11b St. Joe plant at Port St. Joe, Fla.
- 12a St. Regis plant at Birmingham, Ala.
- 12b St. Regis plant at Jacksonville, Fla.
- 12c St. Regis plant at Atlanta, Ga.
- 13a Tri-State plant at Elizabethton, Tenn.
- 14a Union-Camp plant at Lakeland, Fla.
- 14b Union-Camp plant at Savannah, Ga.
- 14c Union-Camp plant at Jamestown, N.C.
- 14d Union-Camp plant at Spartanburg, S.C.
- 15a West Virginia plant at Gastonia, N.C.
- 15b West Virginia plant at Richmond, Va.
- 16b Weyerhaeuser plant at Tampa, Fla.
- 16c Weyerhaeuser plant at Charlotte, N.C.
- 16d Weyerhaeuser plant at Lynchburg, Va.

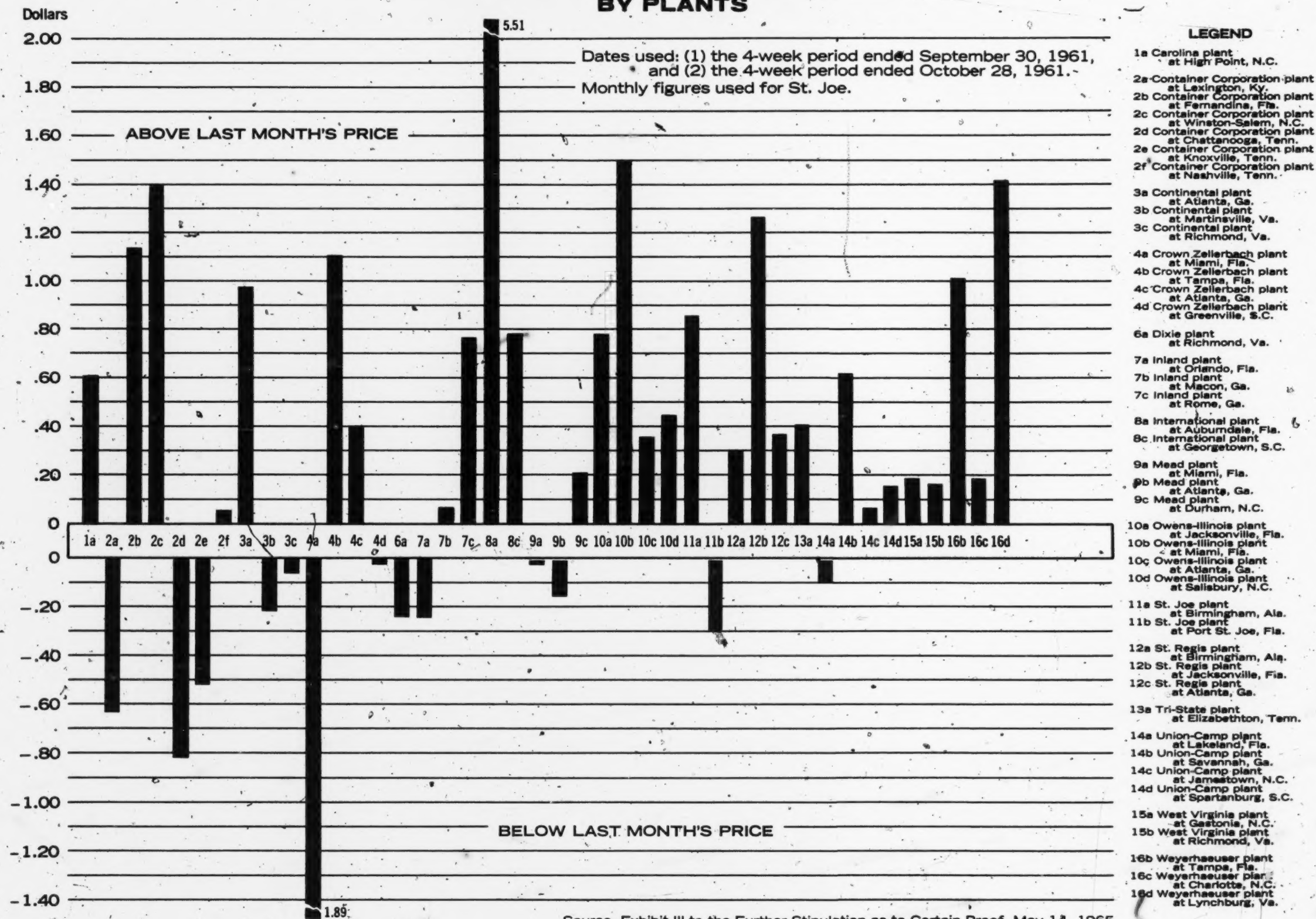
1a 2a 2b 2c 2d 2e 2f 3a 3b 3c 4a 4b 4c 4d 6a 7a 7b 7c 8a 8c 9a 9b 9c 10a 10b 10c 10d 11a 11b 12a 12b 12c 13a 14a 14b 14c 14d 15a 15b 16b 16c 16d

2.81

1.47

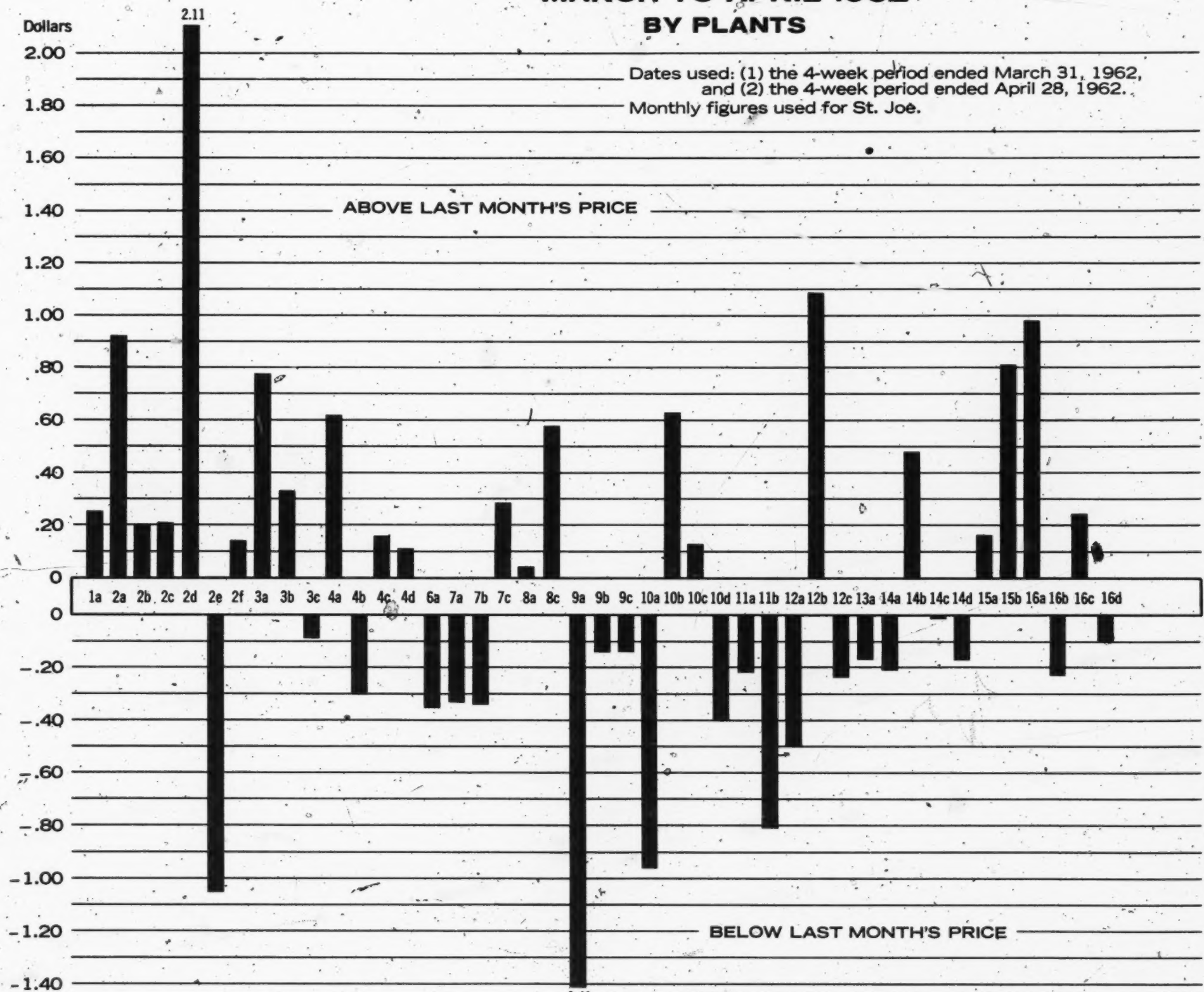
Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1961 BY PLANTS



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

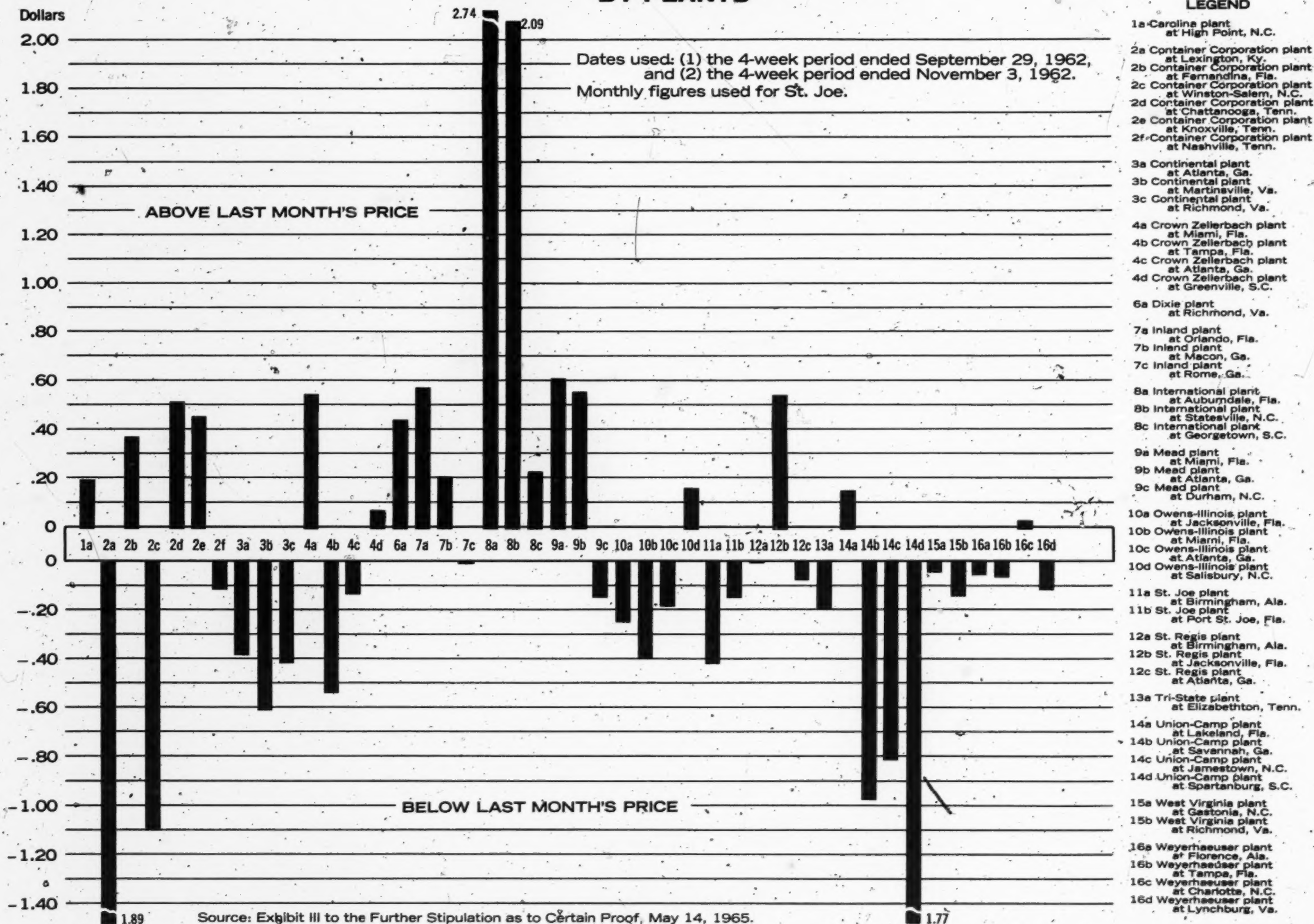
VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1962 BY PLANTS



LEGEND

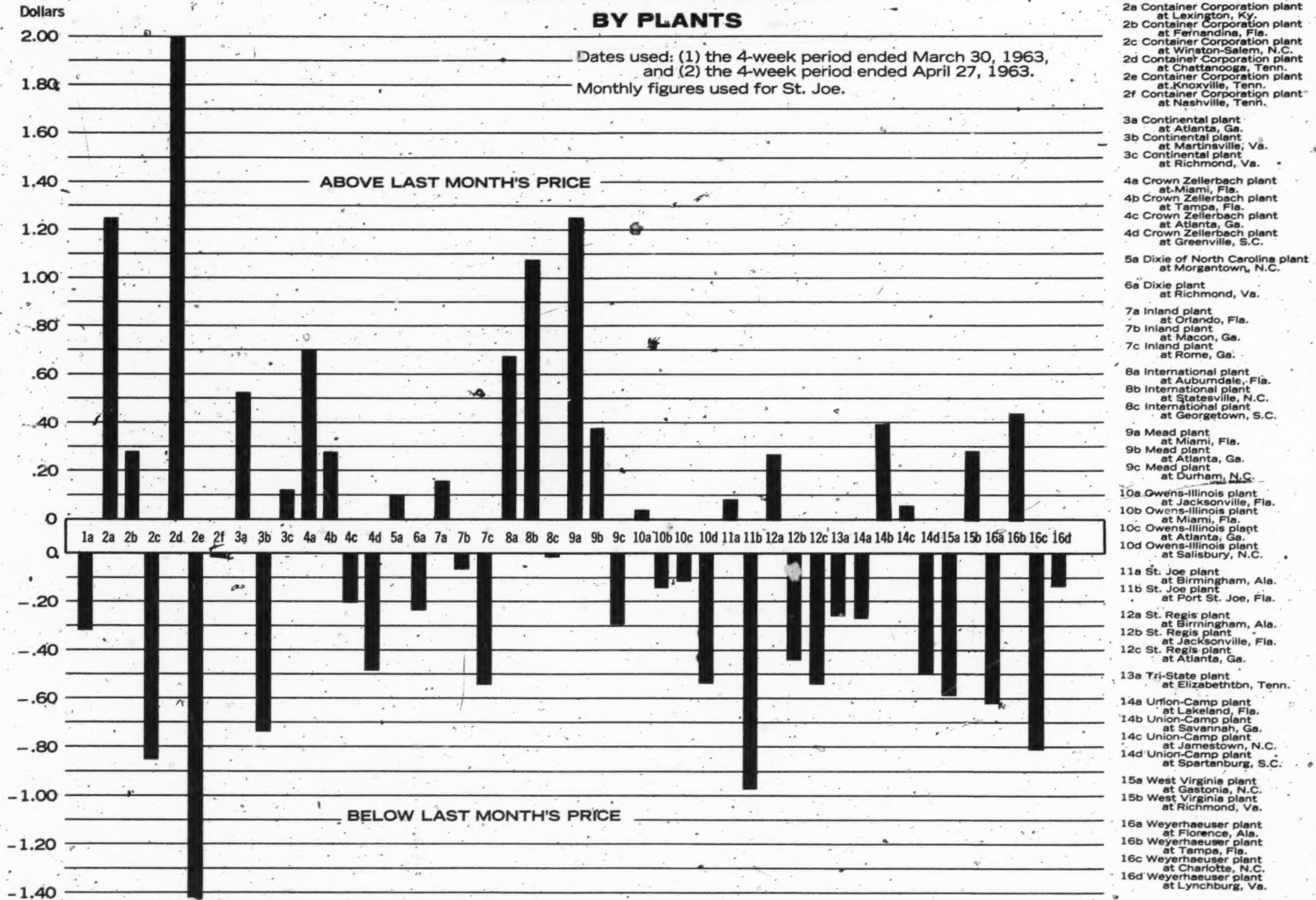
- 1a Carolina plant at High Point, N.C.
- 2a Container Corporation plant at Lexington, Ky.
- 2b Container Corporation plant at Fernandina, Fla.
- 2c Container Corporation plant at Winston-Salem, N.C.
- 2d Container Corporation plant at Chattanooga, Tenn.
- 2e Container Corporation plant at Knoxville, Tenn.
- 2f Container Corporation plant at Nashville, Tenn.
- 3a Continental plant at Atlanta, Ga.
- 3b Continental plant at Martinsville, Va.
- 3c Continental plant at Richmond, Va.
- 4a Crown Zellerbach plant at Miami, Fla.
- 4b Crown Zellerbach plant at Tampa, Fla.
- 4c Crown Zellerbach plant at Atlanta, Ga.
- 4d Crown Zellerbach plant at Greenville, S.C.
- 6a Dixie plant at Richmond, Va.
- 7a Inland plant at Orlando, Fla.
- 7b Inland plant at Macon, Ga.
- 7c Inland plant at Rome, Ga.
- 8a International plant at Auburndale, Fla.
- 8c International plant at Georgetown, S.C.
- 9a Mead plant at Miami, Fla.
- 9b Mead plant at Atlanta, Ga.
- 9c Mead plant at Durham, N.C.
- 10a Owens-Illinois plant at Jacksonville, Fla.
- 10b Owens-Illinois plant at Miami, Fla.
- 10c Owens-Illinois plant at Atlanta, Ga.
- 10d Owens-Illinois plant at Salisbury, N.C.
- 11a St. Joe plant at Birmingham, Ala.
- 11b St. Joe plant at Port St. Joe, Fla.
- 12a St. Regis plant at Birmingham, Ala.
- 12b St. Regis plant at Jacksonville, Fla.
- 12c St. Regis plant at Atlanta, Ga.
- 13a Tri-State plant at Elizabethton, Tenn.
- 14a Union-Camp plant at Lakeland, Fla.
- 14b Union-Camp plant at Savannah, Ga.
- 14c Union-Camp plant at Jamestown, N.C.
- 14d Union-Camp plant at Spartanburg, S.C.
- 15a West Virginia plant at Gastonia, N.C.
- 15b West Virginia plant at Richmond, Va.
- 16a Weyerhaeuser plant at Florence, Ala.
- 16b Weyerhaeuser plant at Tampa, Fla.
- 16c Weyerhaeuser plant at Charlotte, N.C.
- 16d Weyerhaeuser plant at Lynchburg, Va.

VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1962 BY PLANTS

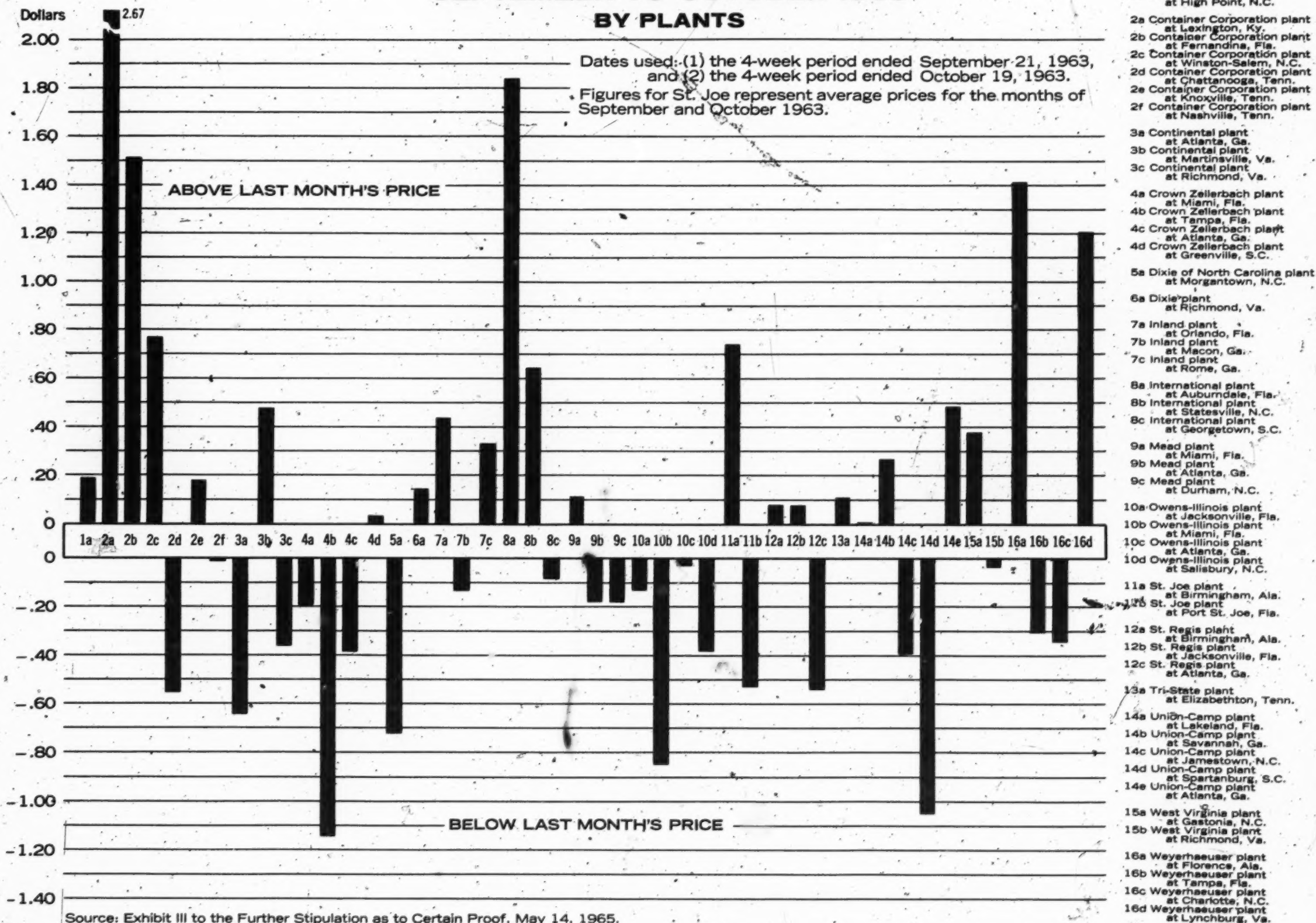


VARIANCE FROM LAST MONTH'S PRICE MARCH TO APRIL 1963 BY PLANTS

Dates used: (1) the 4-week period ended March 30, 1963,
and (2) the 4-week period ended April 27, 1963.
Monthly figures used for St. Joe.



VARIANCE FROM LAST MONTH'S PRICE SEPTEMBER TO OCTOBER 1963 BY PLANTS



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

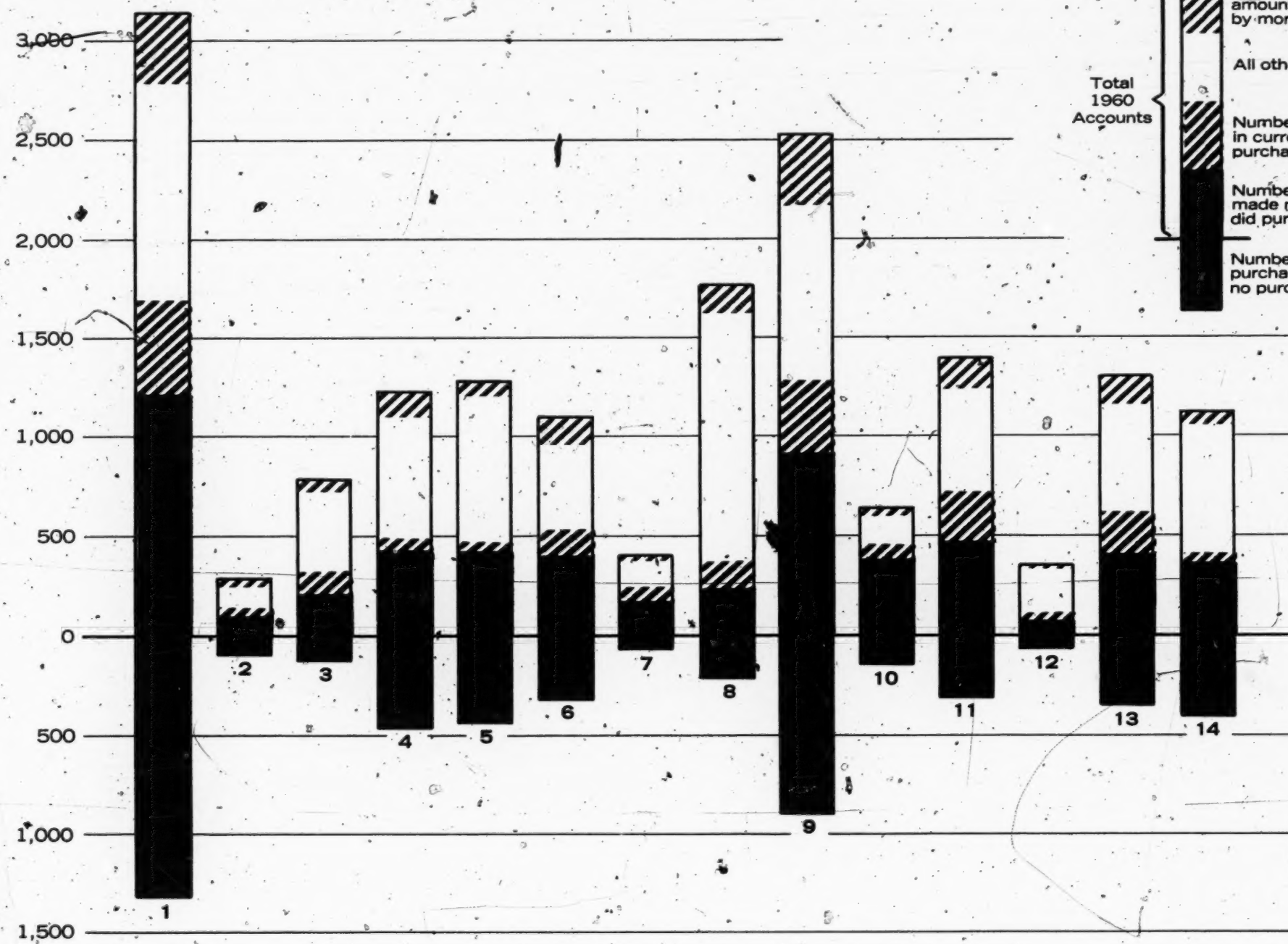
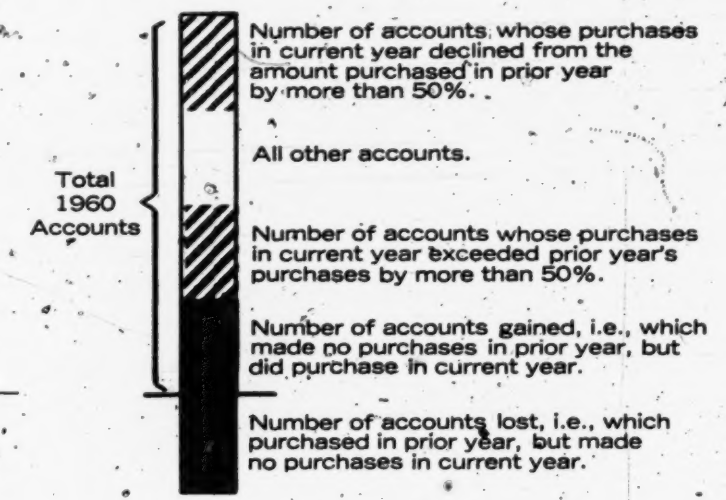
ACCOUNTS GAINED AND LOST BY COMPANIES

The charts in this section show the number of accounts lost and gained, or largely lost or gained, in the Southeastern United States by those defendants for which such information is available. The years covered are 1960 — 1962, and it has been stipulated that the figures are representative for each defendant of the entire period covered by the complaint. See Paragraph 5 of Exhibit I to the Further Stipulation as to Certain Proof, May 14, 1965.

ACCOUNTS GAINED AND LOST BY COMPANIES 1960

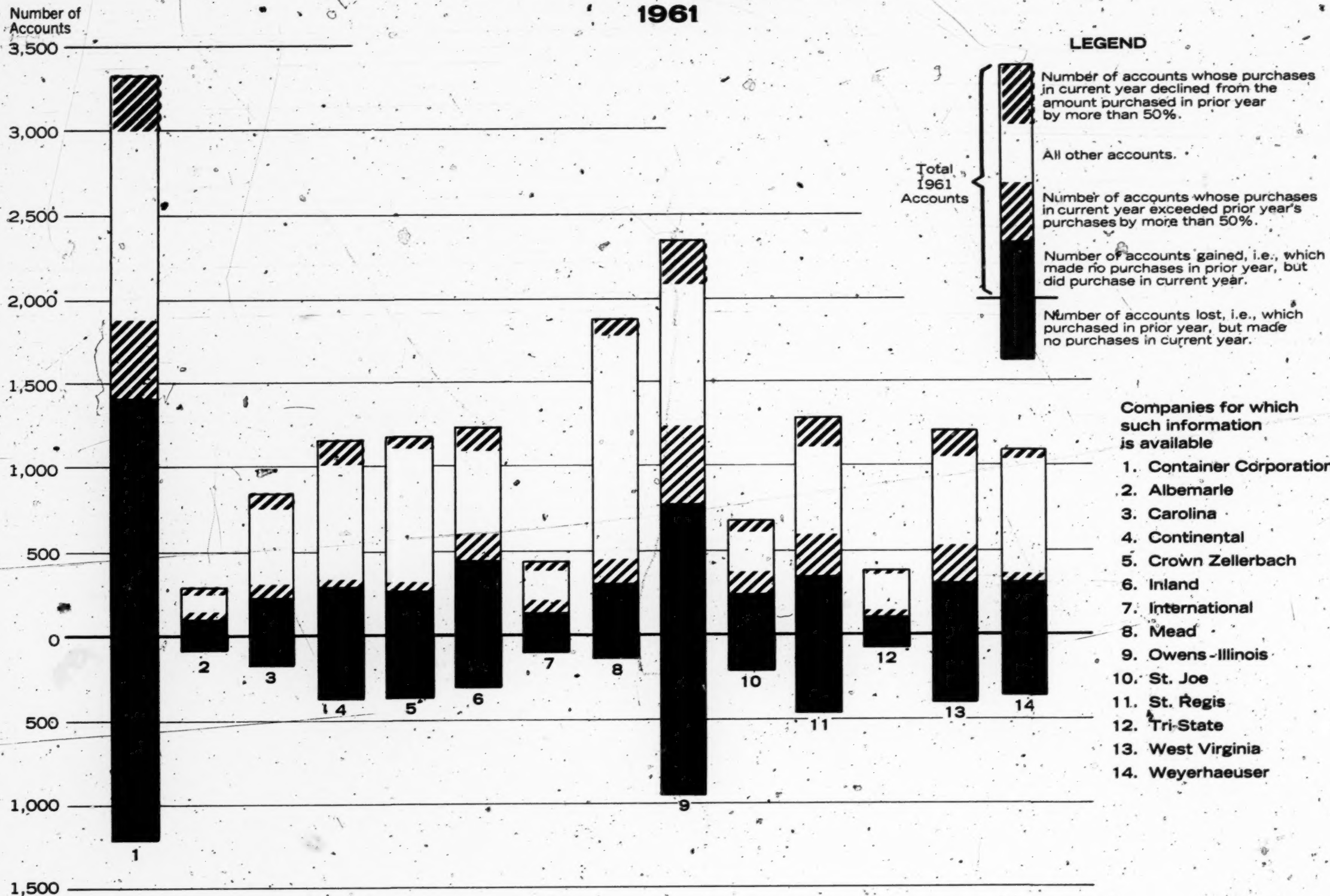
Number of
Accounts
3,500

LEGEND



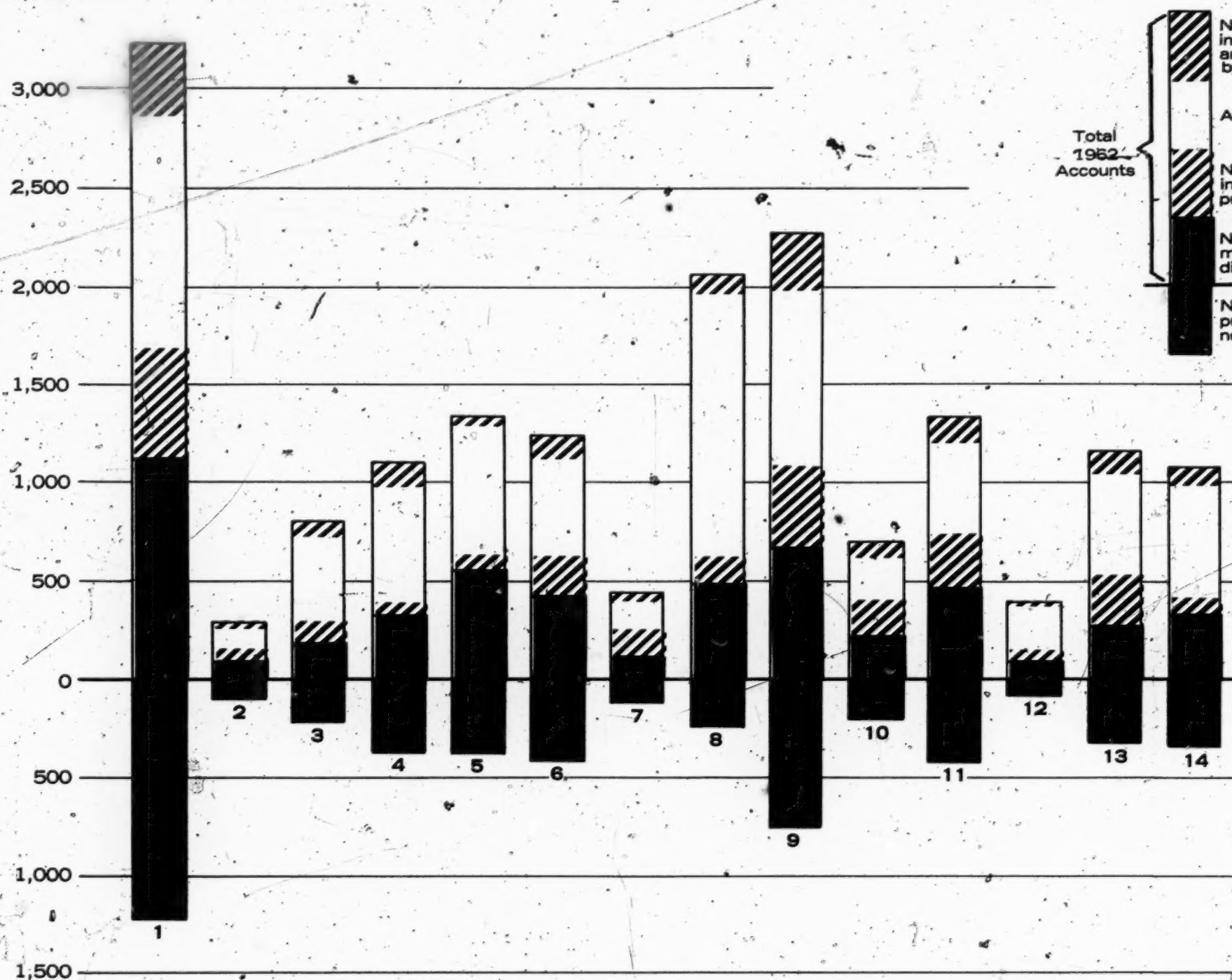
- Companies for which such information is available
1. Container Corporation
 2. Albemarle
 3. Carolina
 4. Continental
 5. Crown Zellerbach
 6. Inland
 7. International
 8. Mead
 9. Owens-Illinois
 10. St. Joe
 11. St. Regis
 12. Tri-State
 13. West Virginia
 14. Weyerhaeuser

ACCOUNTS GAINED AND LOST BY COMPANIES 1961



ACCOUNTS GAINED AND LOST BY COMPANIES 1962

Number of
Accounts
3,500



LEGEND

Number of accounts whose purchases in current year declined from the amount purchased in prior year by more than 50%.

All other accounts.

Number of accounts whose purchases in current year exceeded prior year's purchases by more than 50%.

Number of accounts gained, i.e., which made no purchases in prior year, but did purchase in current year.

Number of accounts lost, i.e., which purchased in prior year, but made no purchases in current year.

Companies for which such information is available

1. Container Corporation
2. Albemarle
3. Carolina
4. Continental
5. Crown Zellerbach
6. Inland
7. International
8. Mead
9. Owens-Illinois
10. St. Joe
11. St. Regis
12. Tri-State
13. West Virginia
14. Weyerhaeuser

PRICE TRENDS BY PLANTS 1955-1963

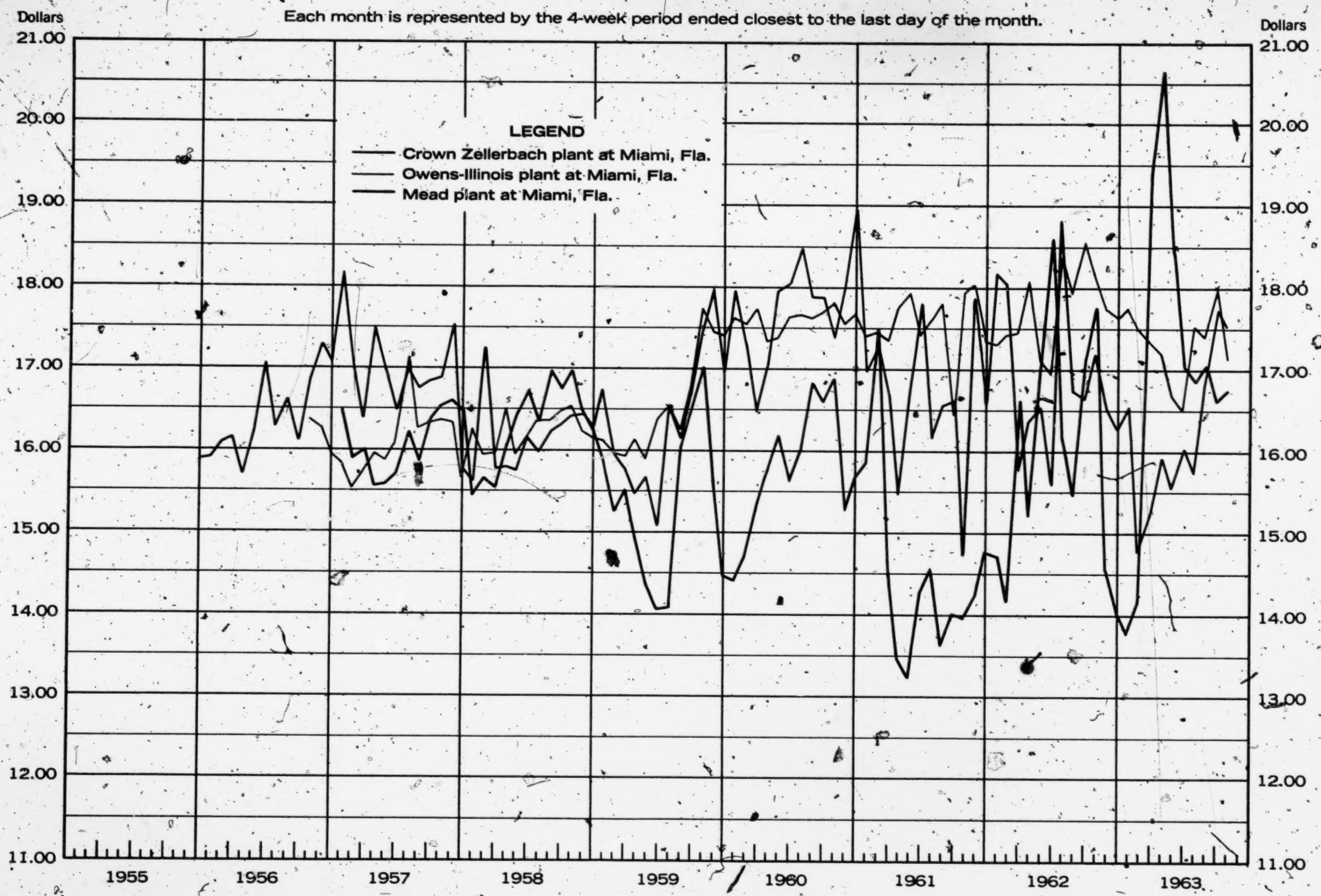
The charts in this section show the trend over the period 1955 to October 1963 in box prices as shown in Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965. See also Paragraph 59 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.

For each company, except for St. Joe, included in these charts the figures represent 4-week averages for each plant. Each month is represented by the 4-week period ended closest to the last day of the month. For St. Joe, its full calendar month figures are used throughout.

Mechanical limitations require that not more than approximately five plants be shown on a single chart. For this reason it has been necessary to group the plants in some manner. The basis for such grouping is roughly geographic. The grouping on the charts is not intended to define competitive areas.

PRICE TRENDS BY PLANTS **1955-1963**

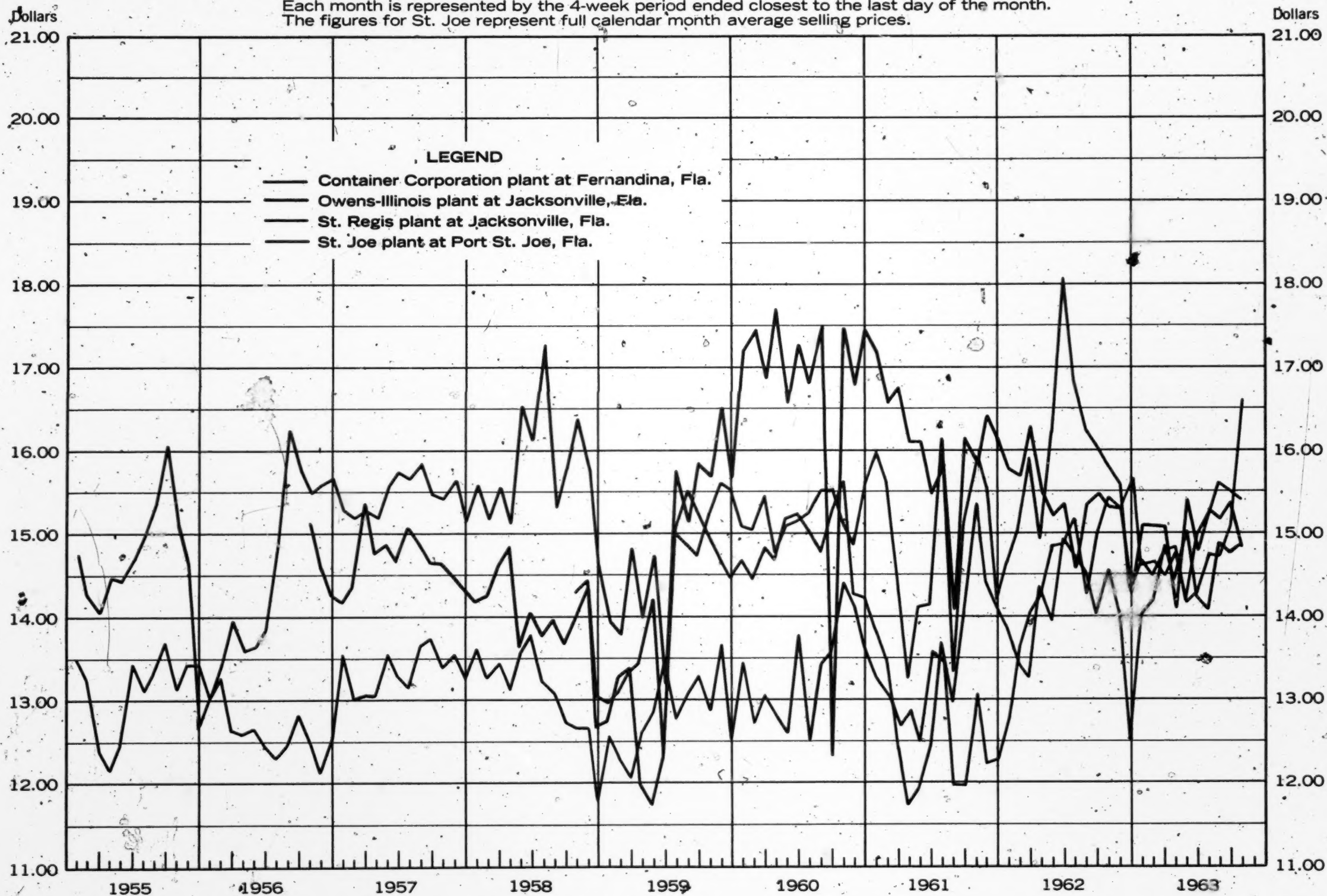
Each month is represented by the 4-week period ended closest to the last day of the month.



PRICE TRENDS BY PLANTS 1955-1963

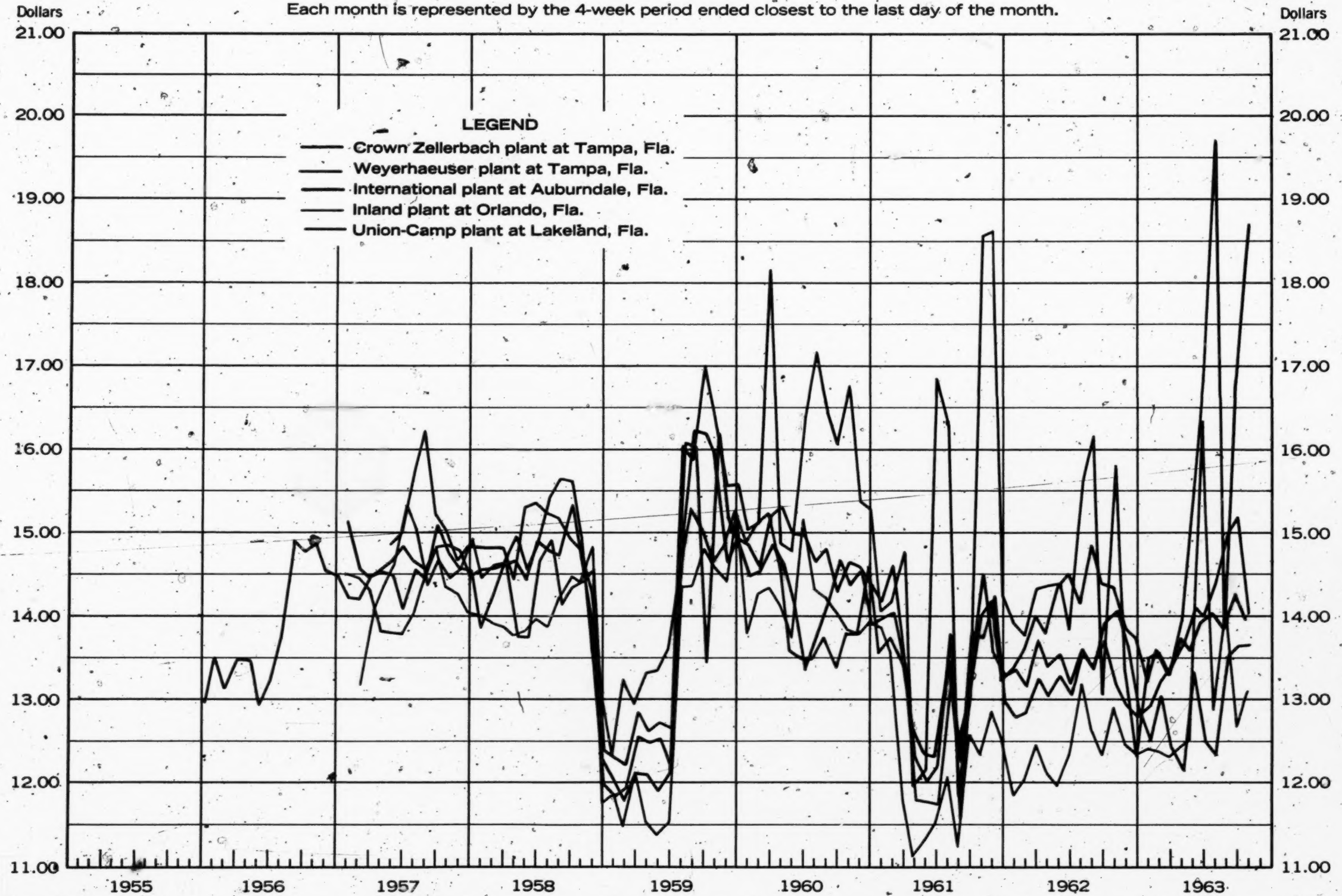
27

Each month is represented by the 4-week period ended closest to the last day of the month.
The figures for St. Joe represent full calendar month average selling prices.



PRICE TRENDS BY PLANTS 1955-1963

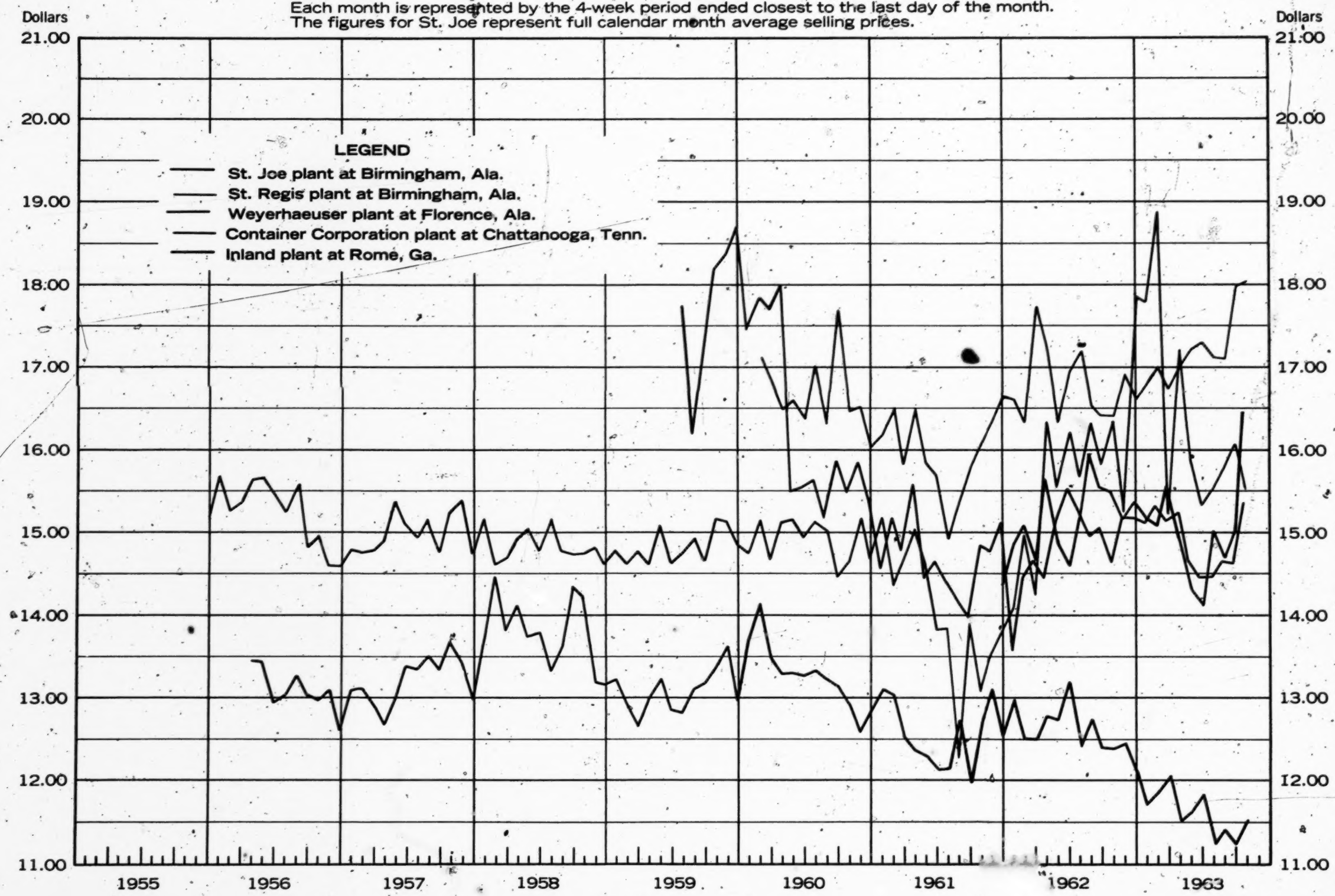
Each month is represented by the 4-week period ended closest to the last day of the month.



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

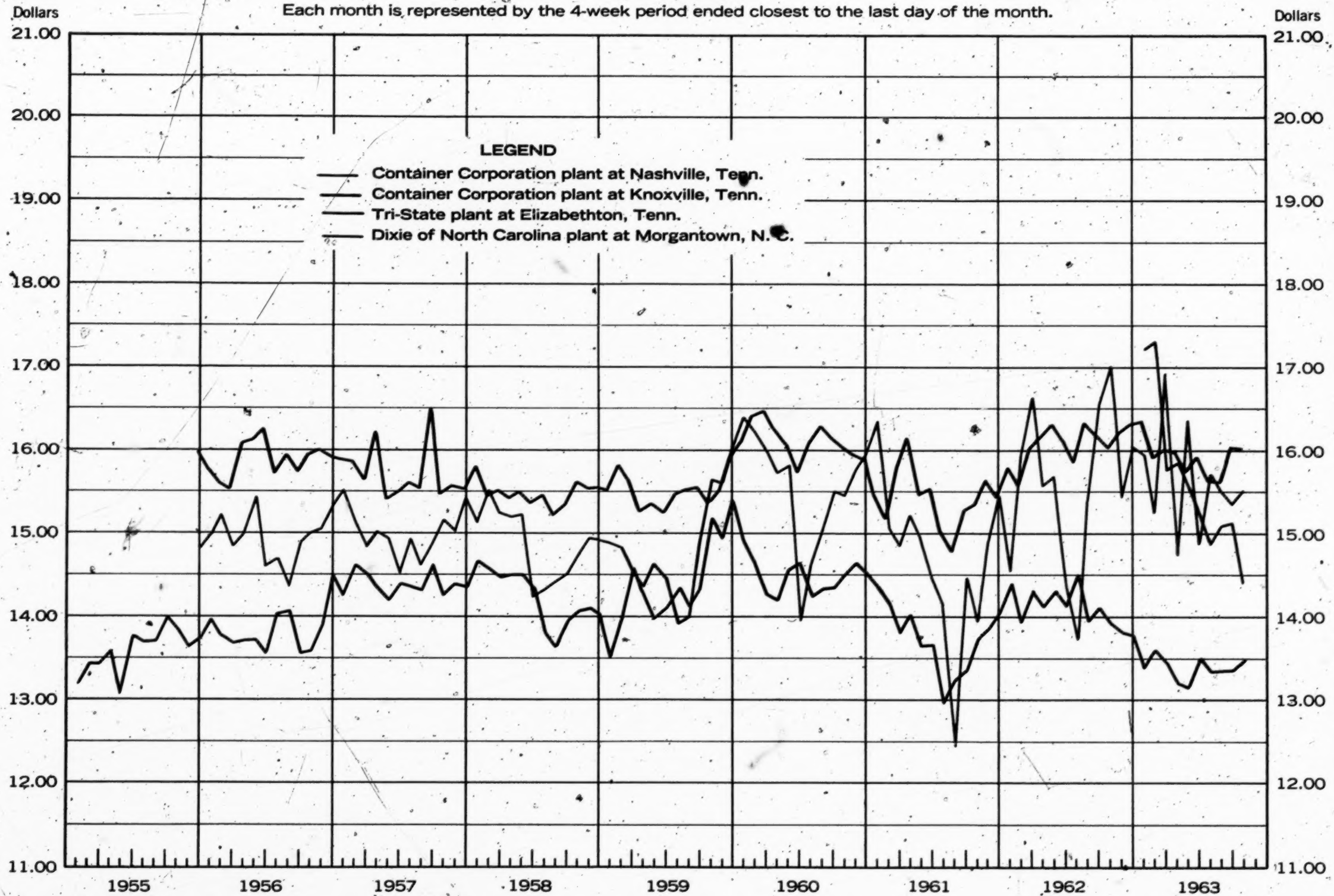
PRICE TRENDS BY PLANTS 1955-1963

Each month is represented by the 4-week period ended closest to the last day of the month.
The figures for St. Joe represent full calendar month average selling prices.



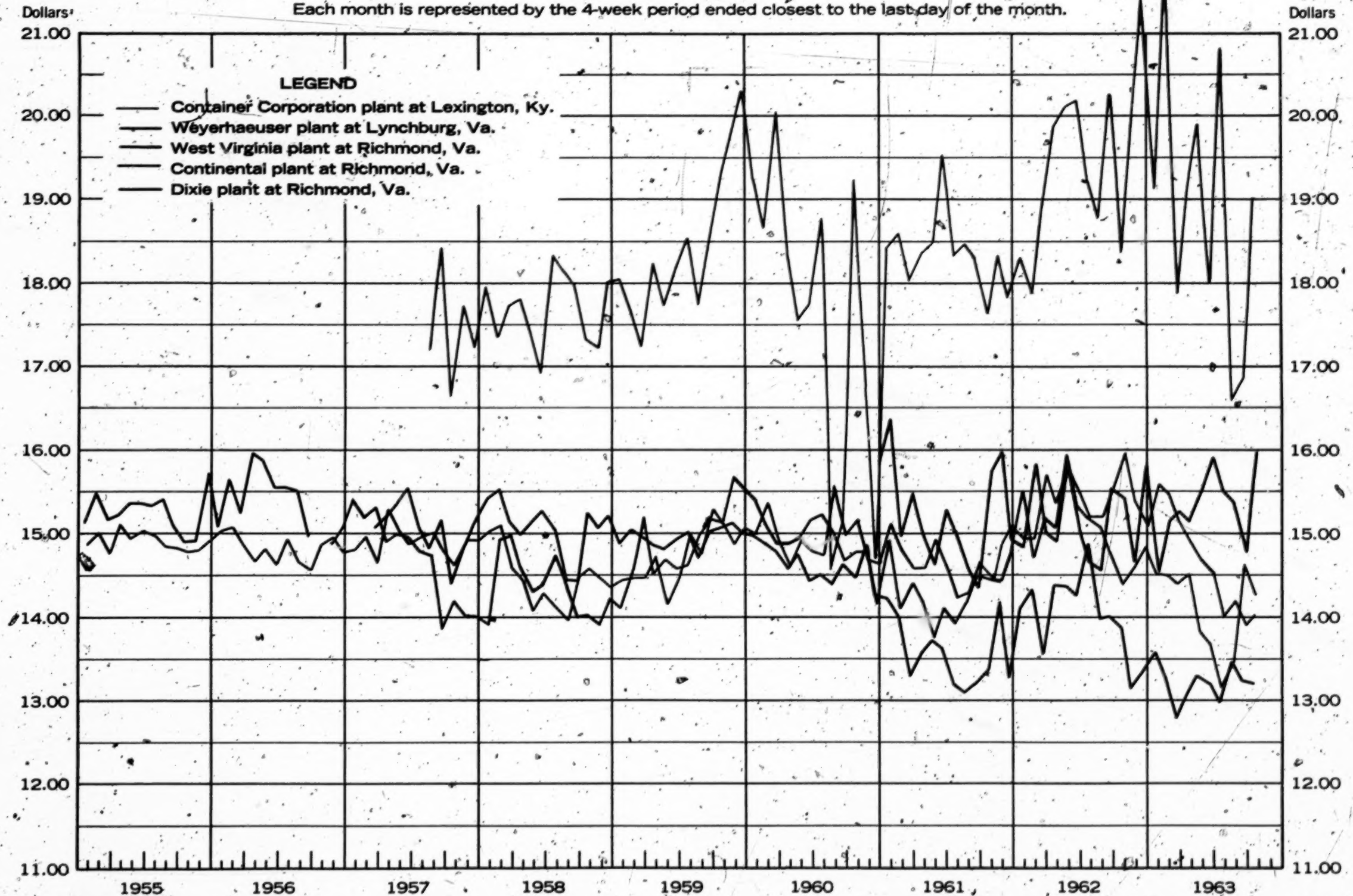
PRICE TRENDS BY PLANTS 1955-1963

Each month is represented by the 4-week period ended closest to the last day of the month.



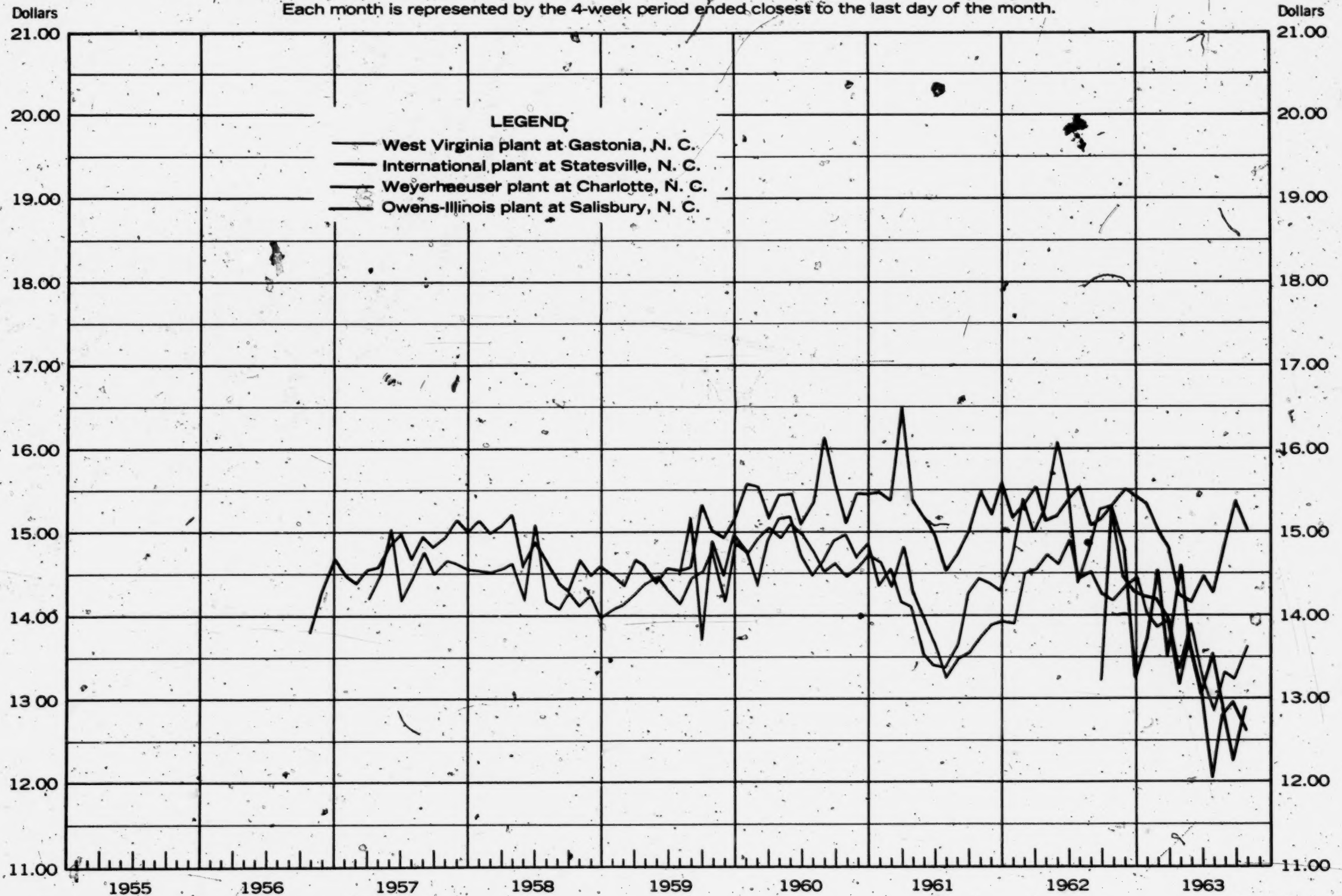
PRICE TRENDS BY PLANTS 1955-1963

Each month is represented by the 4-week period ended closest to the last day of the month.



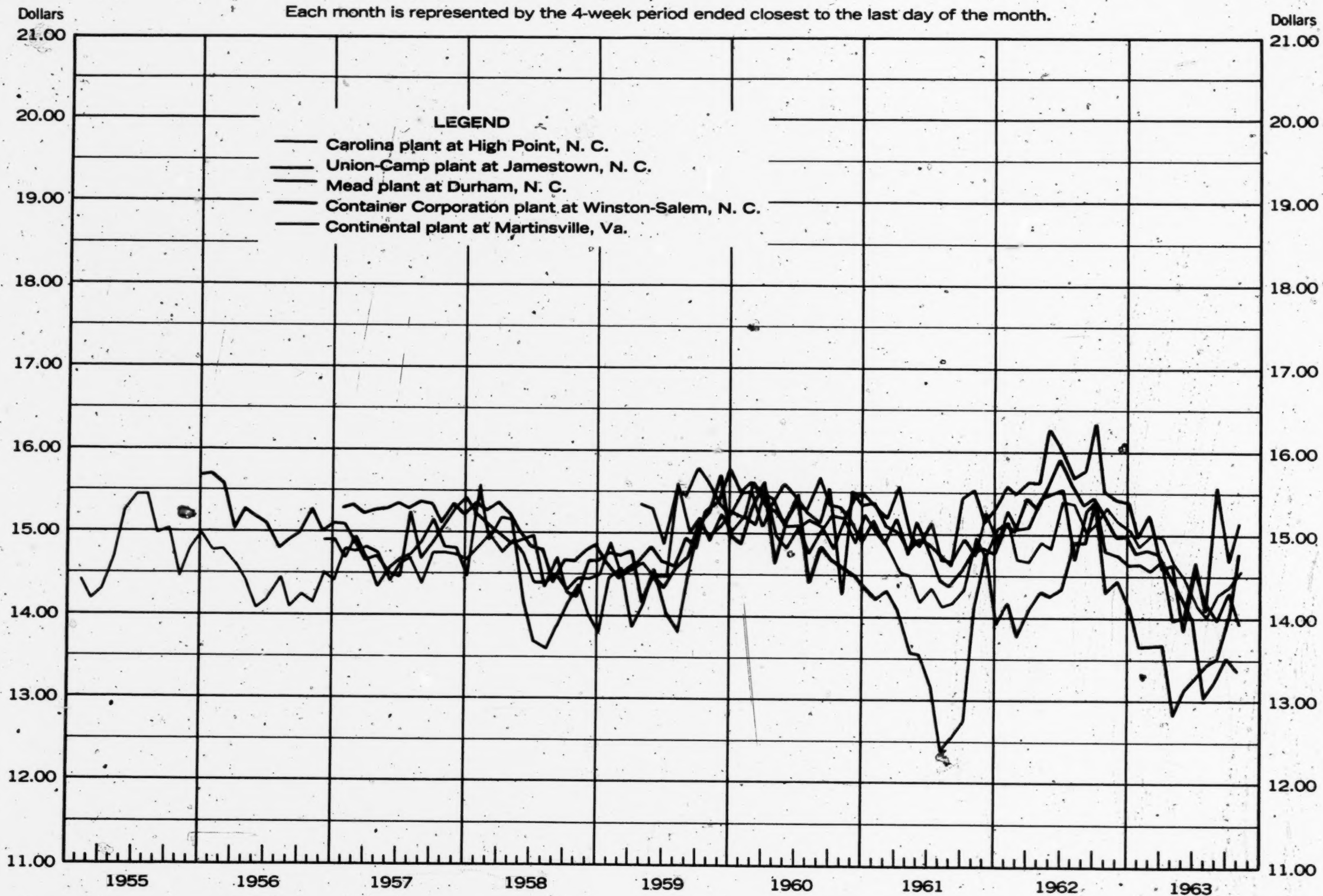
PRICE TRENDS BY PLANTS 1955-1963

Each month is represented by the 4-week period ended closest to the last day of the month.

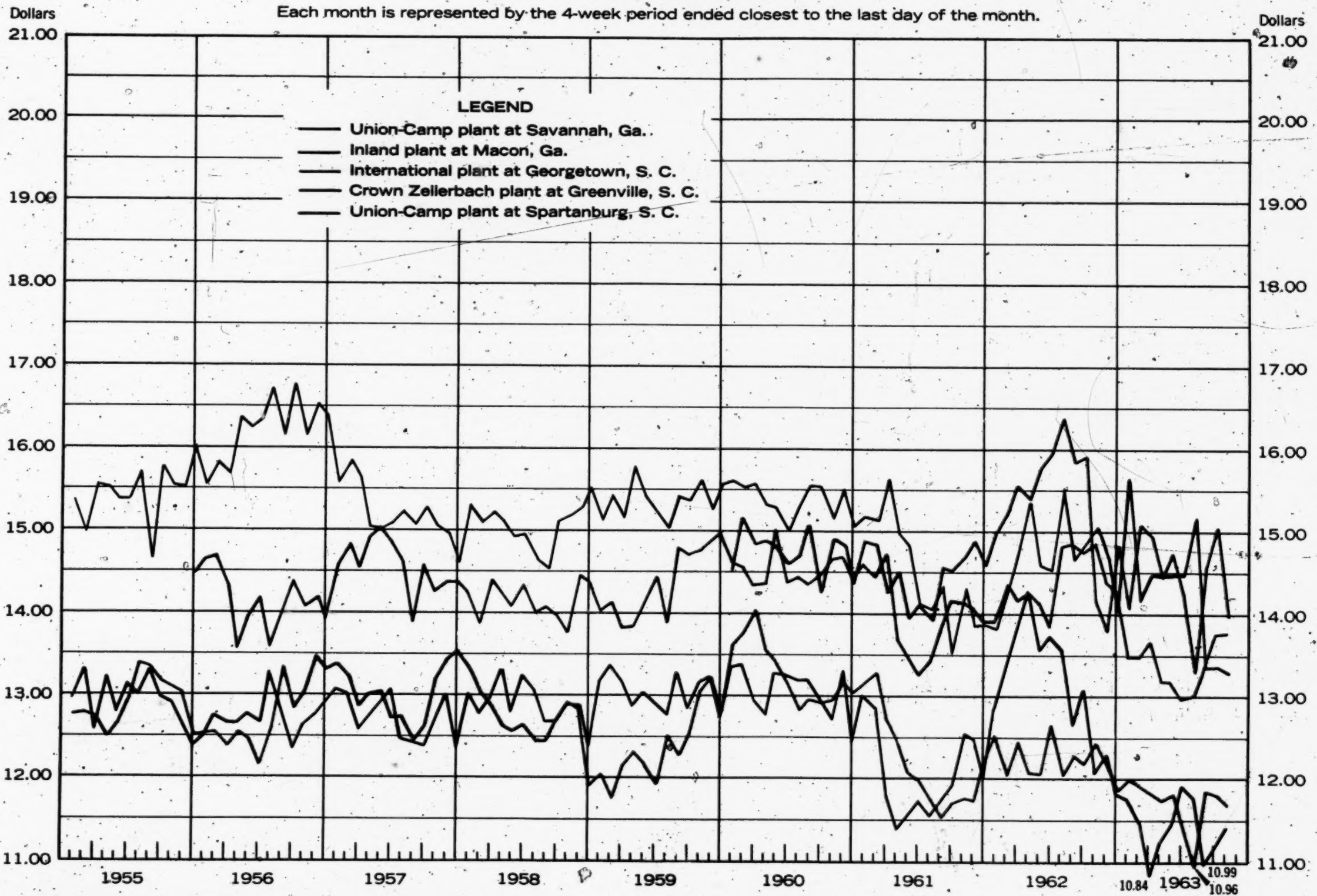


PRICE TRENDS BY PLANTS 1955-1963

Each month is represented by the 4-week period ended closest to the last day of the month.



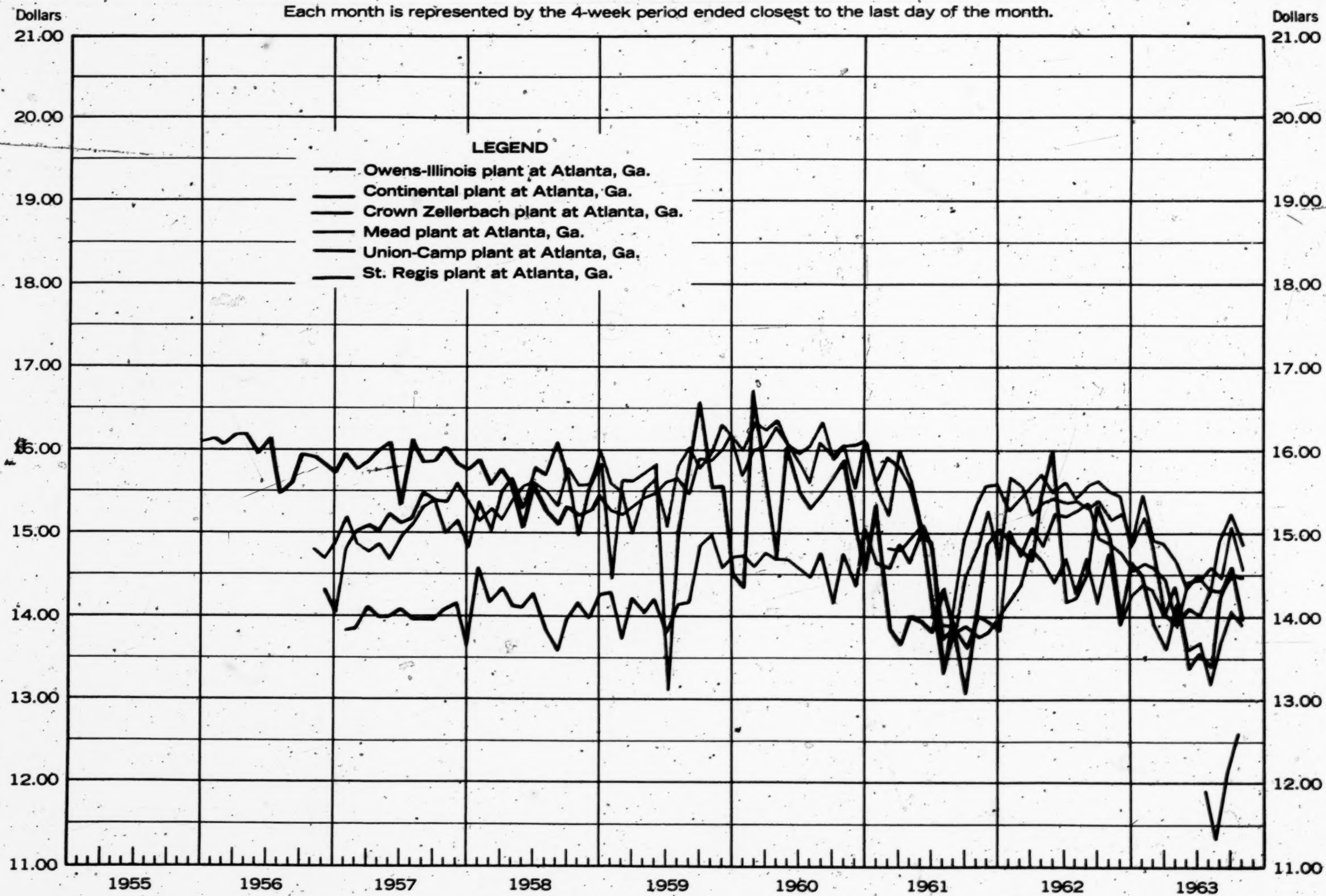
PRICE TRENDS BY PLANTS 1955-1963



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS **1955-1963**

Each month is represented by the 4-week period ended closest to the last day of the month.



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS 1961

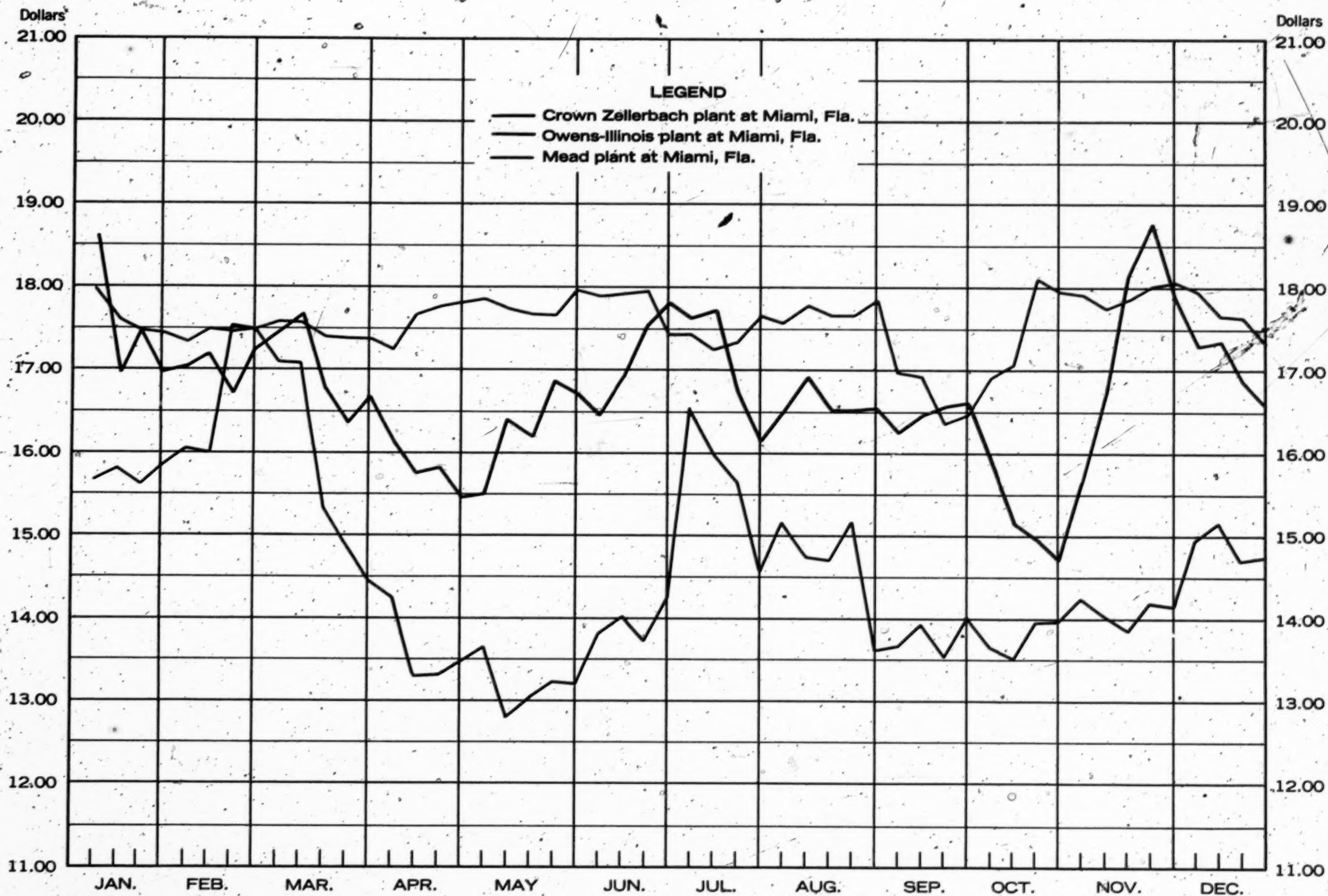
The charts in this section show the trend during the year 1961 in box prices as shown in Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965. See also Paragraph 59 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.

For each company included in these charts the figures represent for each Saturday of the year the price during the 4-week period ended that Saturday.

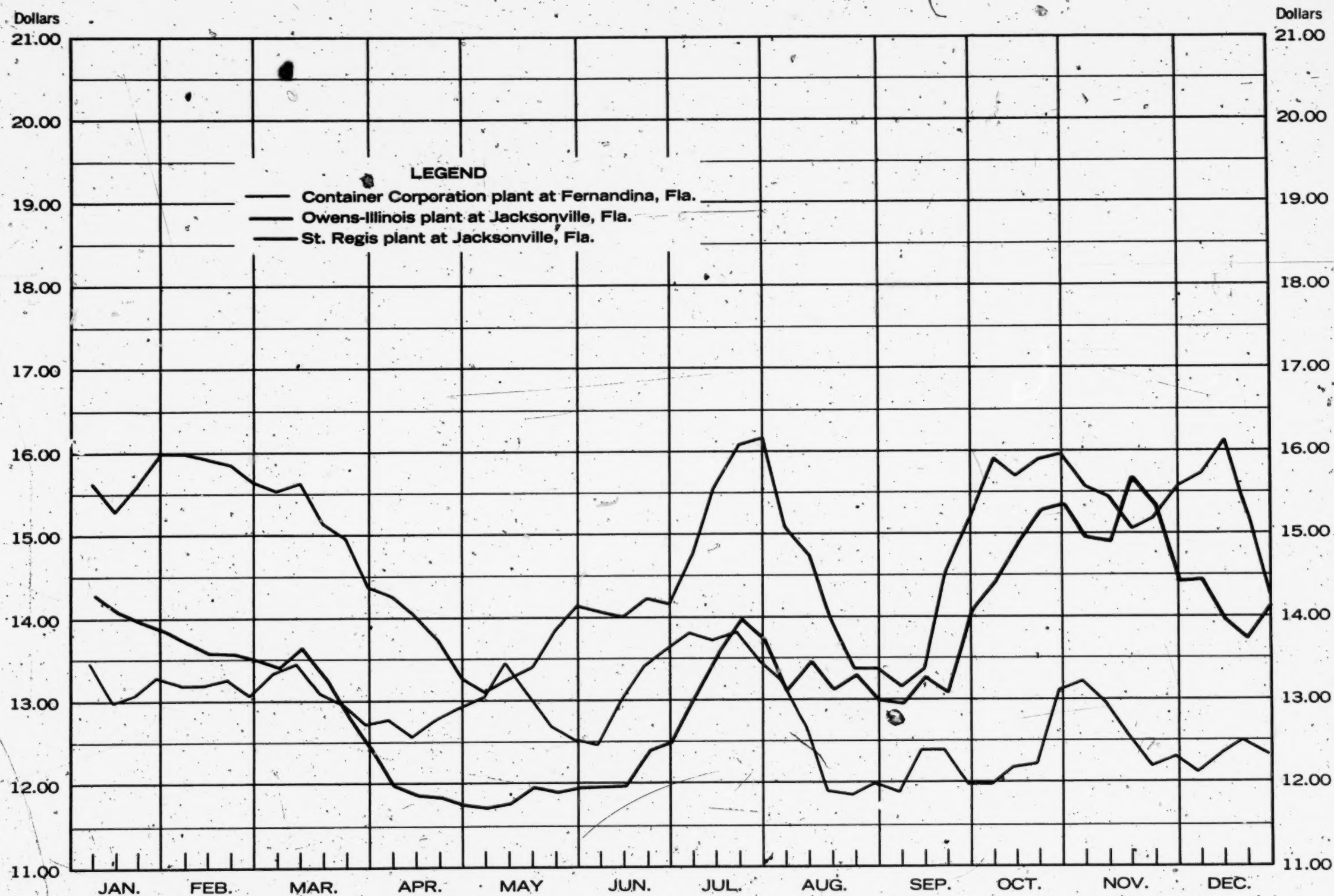
St. Joe, which was included in the Price Trends 1955-1963 charts, did not have figures available for the Price Trends 1961 charts.

Mechanical limitations require that not more than approximately five plants be shown on a single chart. For this reason it has been necessary to group the plants in some manner. The basis for such grouping is roughly geographic. The grouping on the charts is not intended to define competitive areas.

PRICE TRENDS BY PLANTS 1961



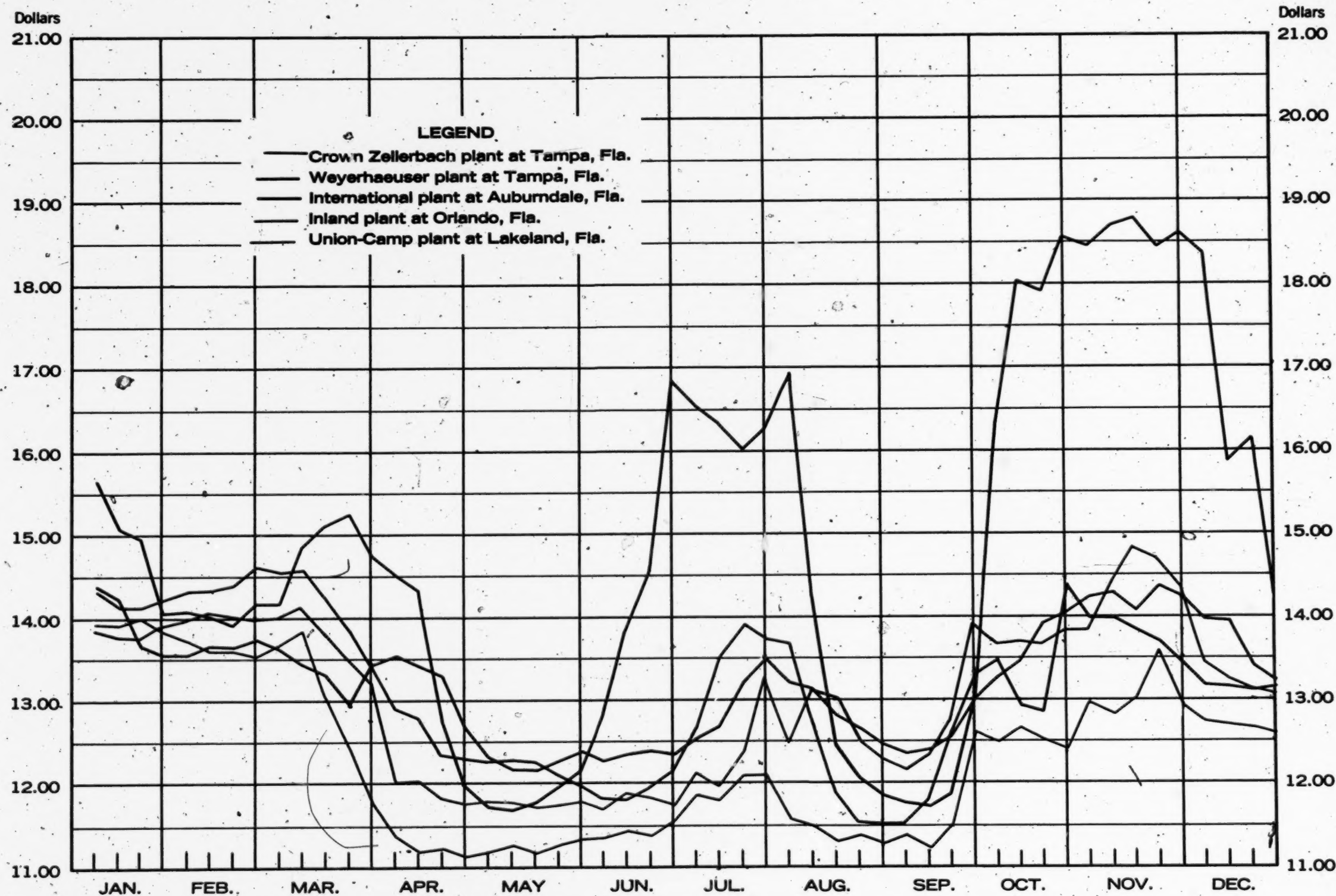
PRICE TRENDS BY PLANTS 1961



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

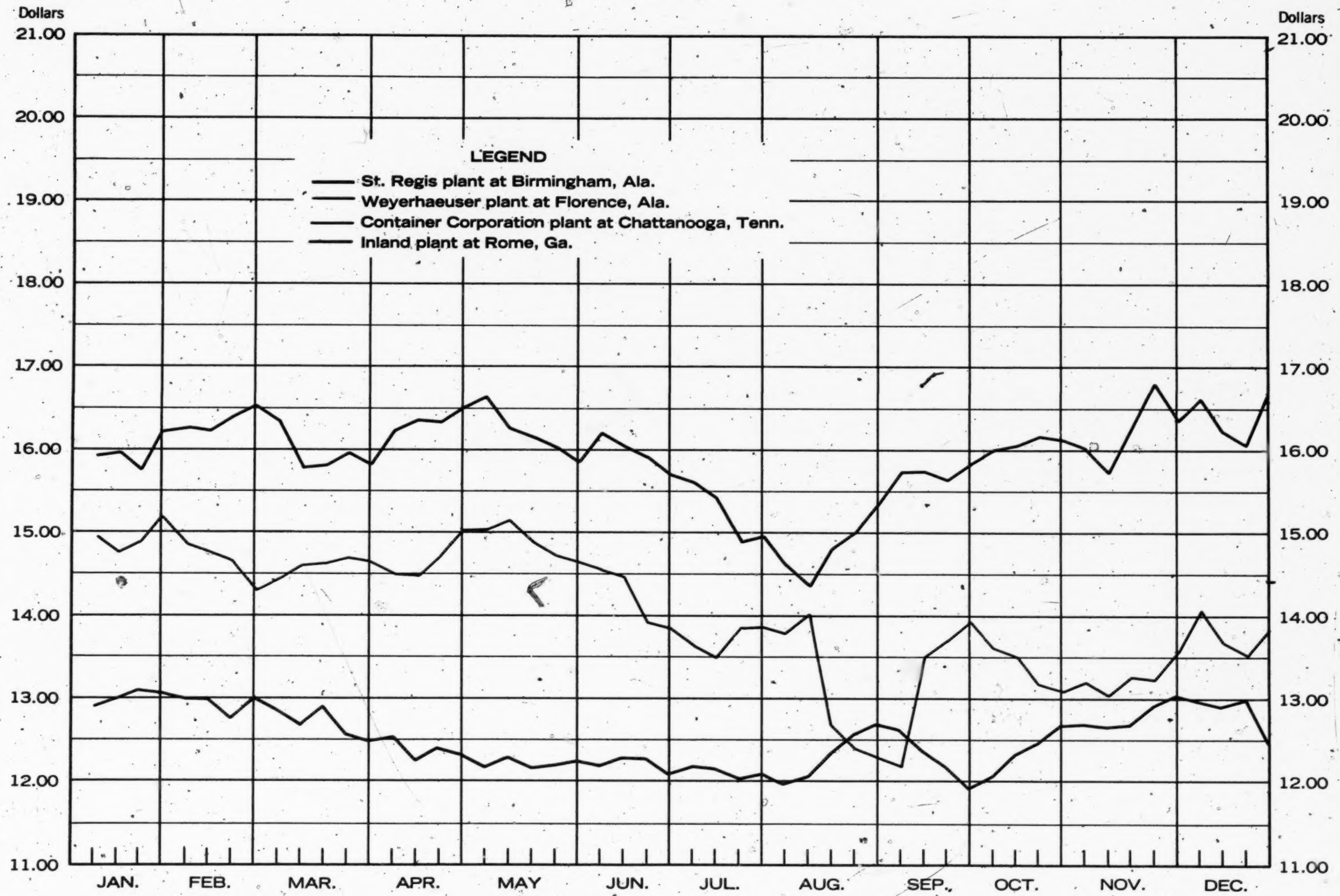
PRICE TRENDS BY PLANTS 1961

39

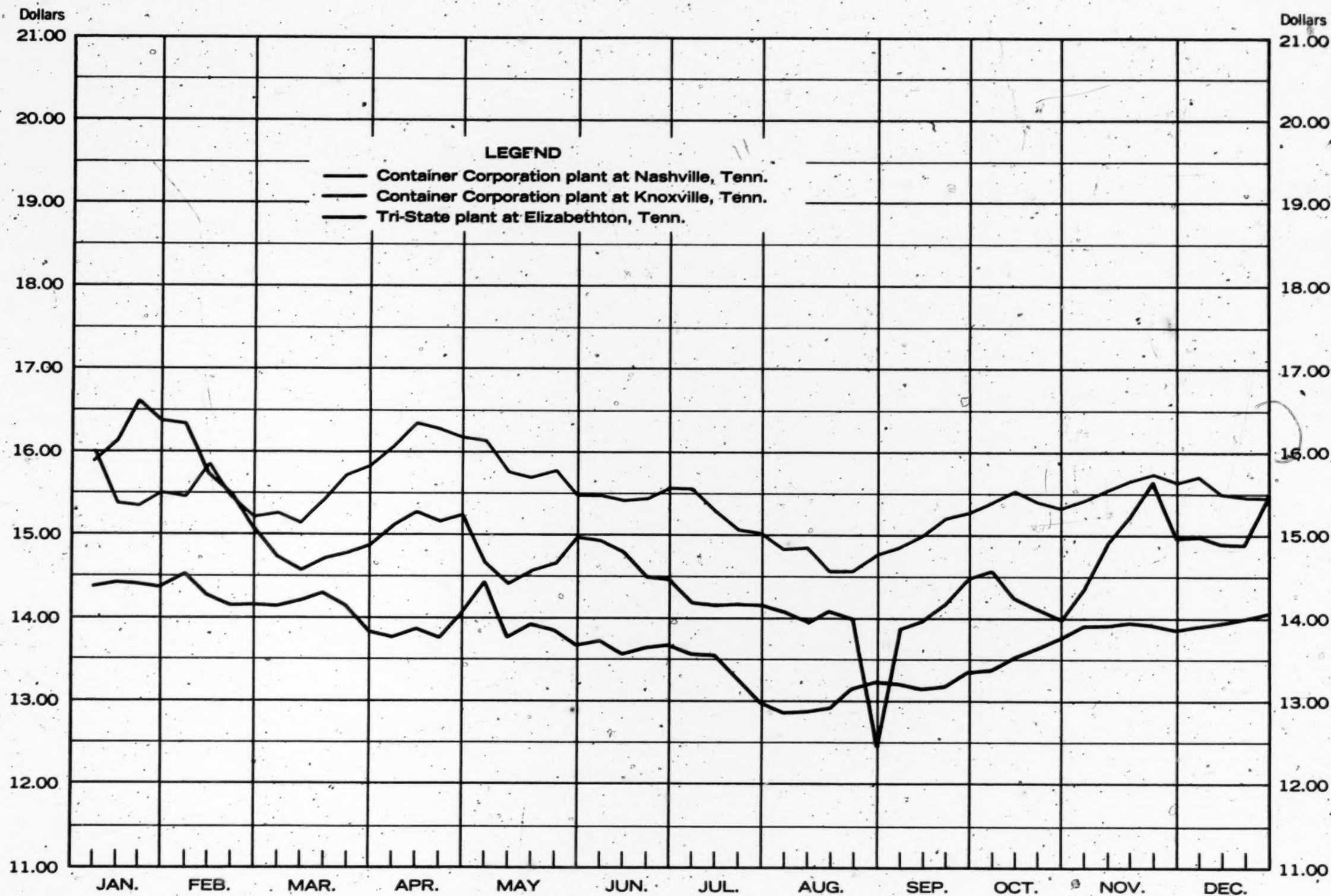


Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS 1961

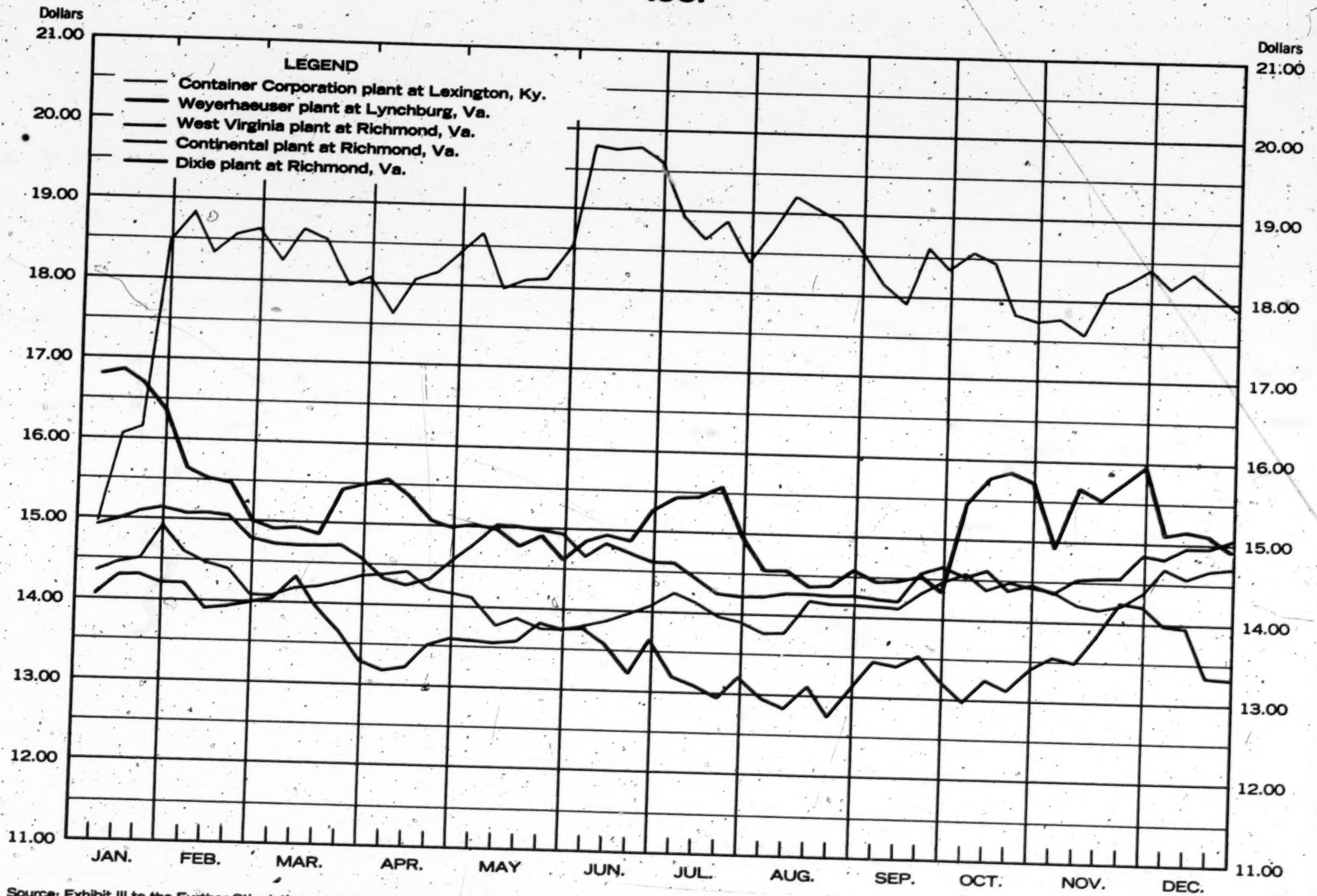


PRICE TRENDS BY PLANTS 1961



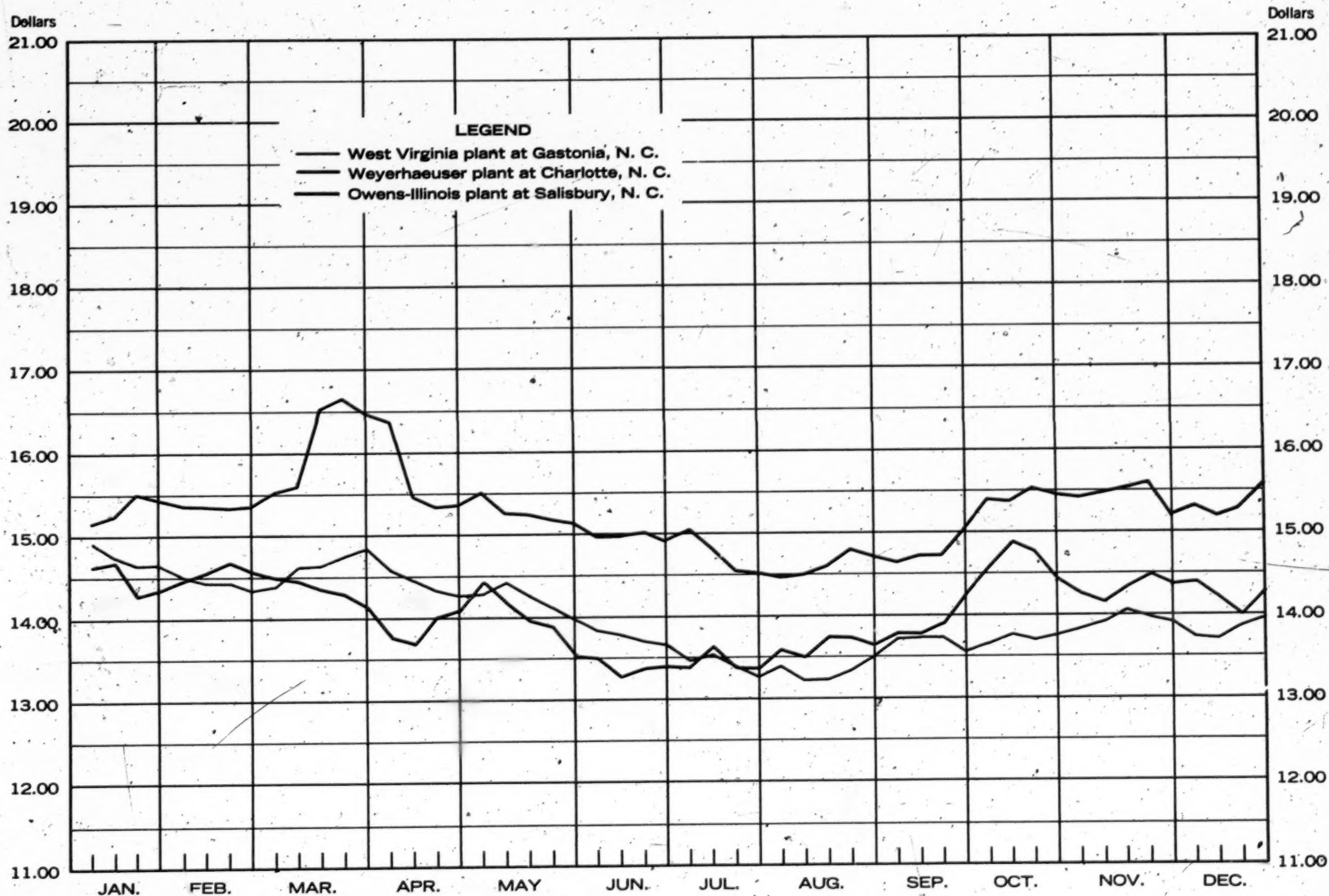
PRICE TRENDS BY PLANTS 1961

42



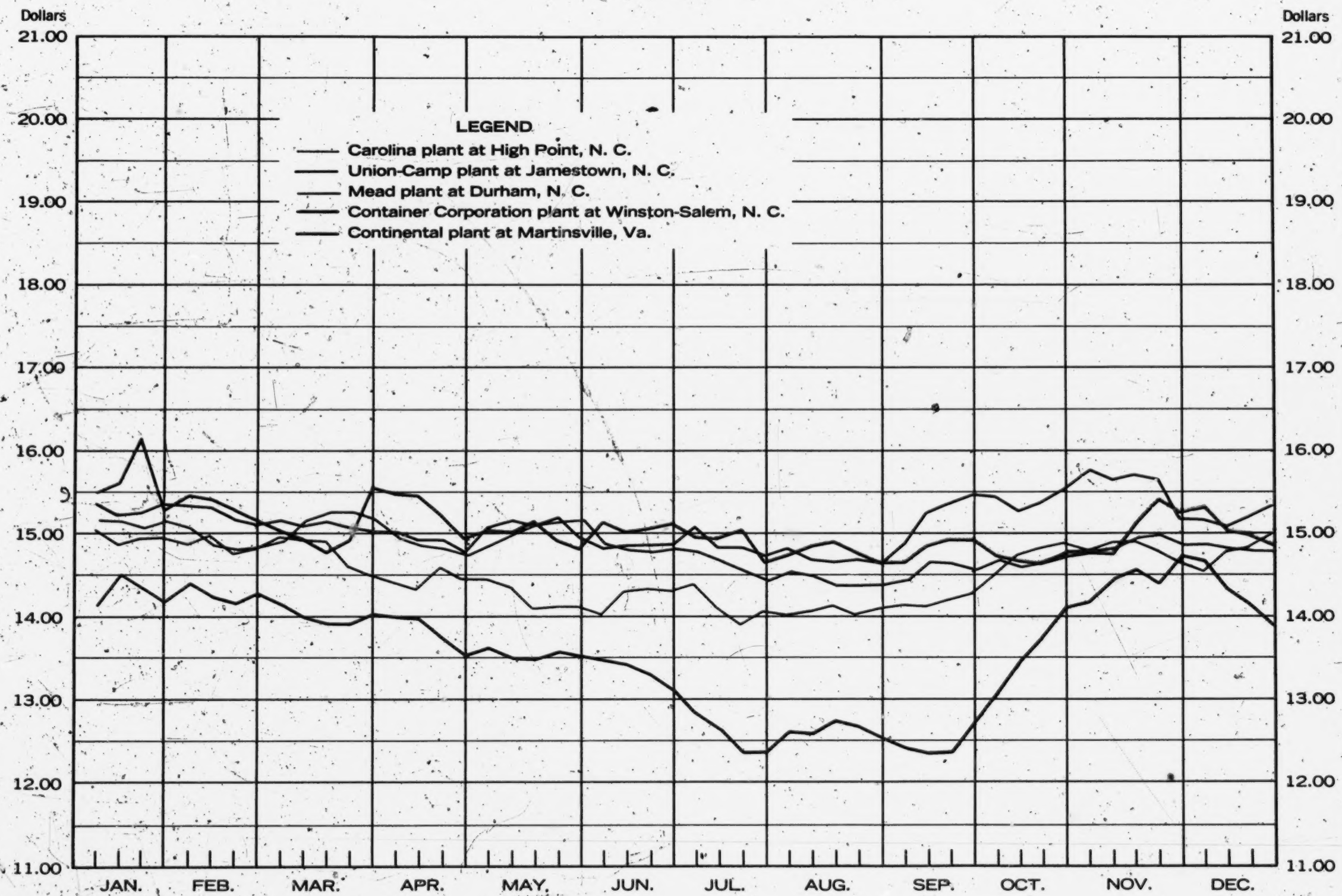
Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS 1961



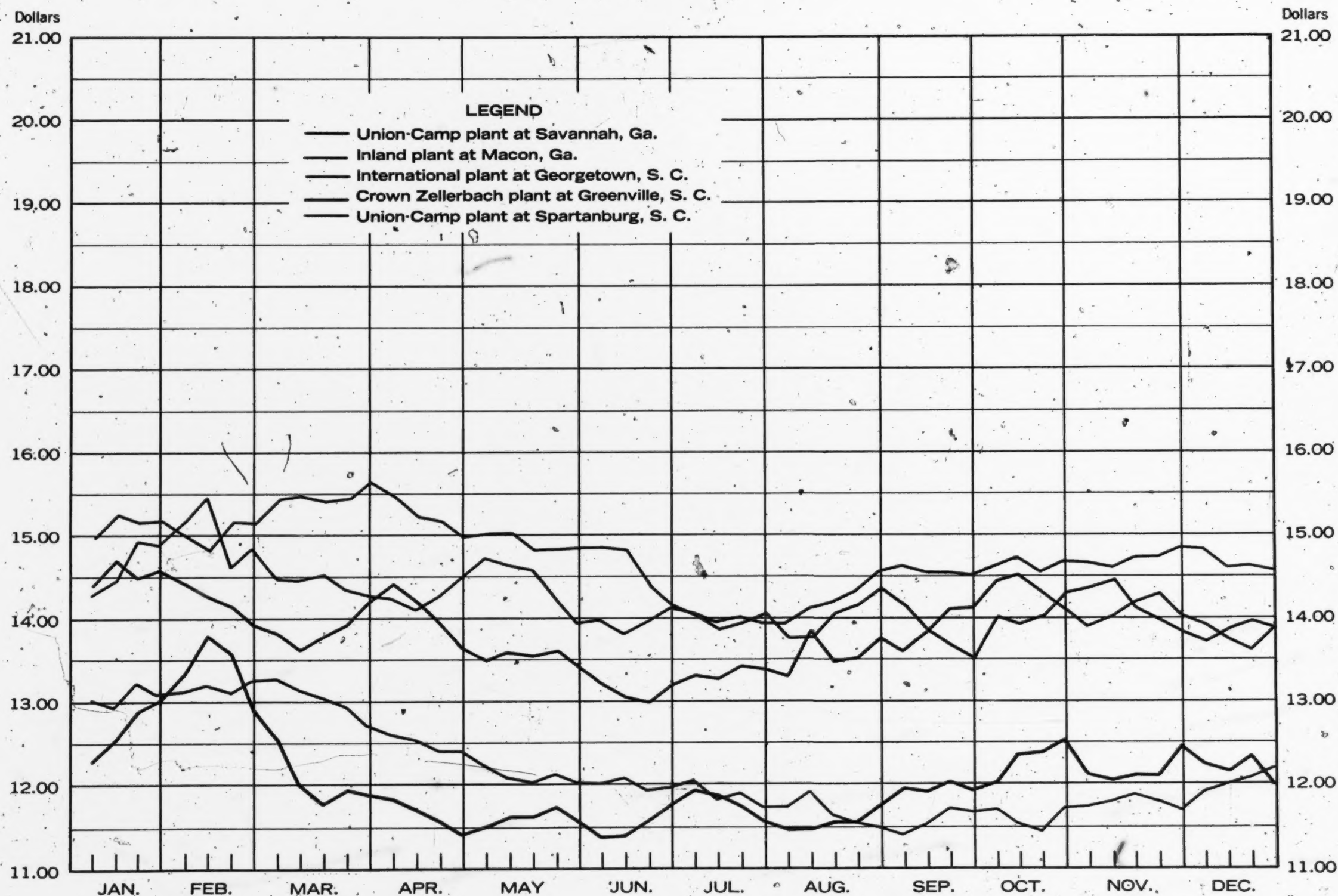
Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS 1961



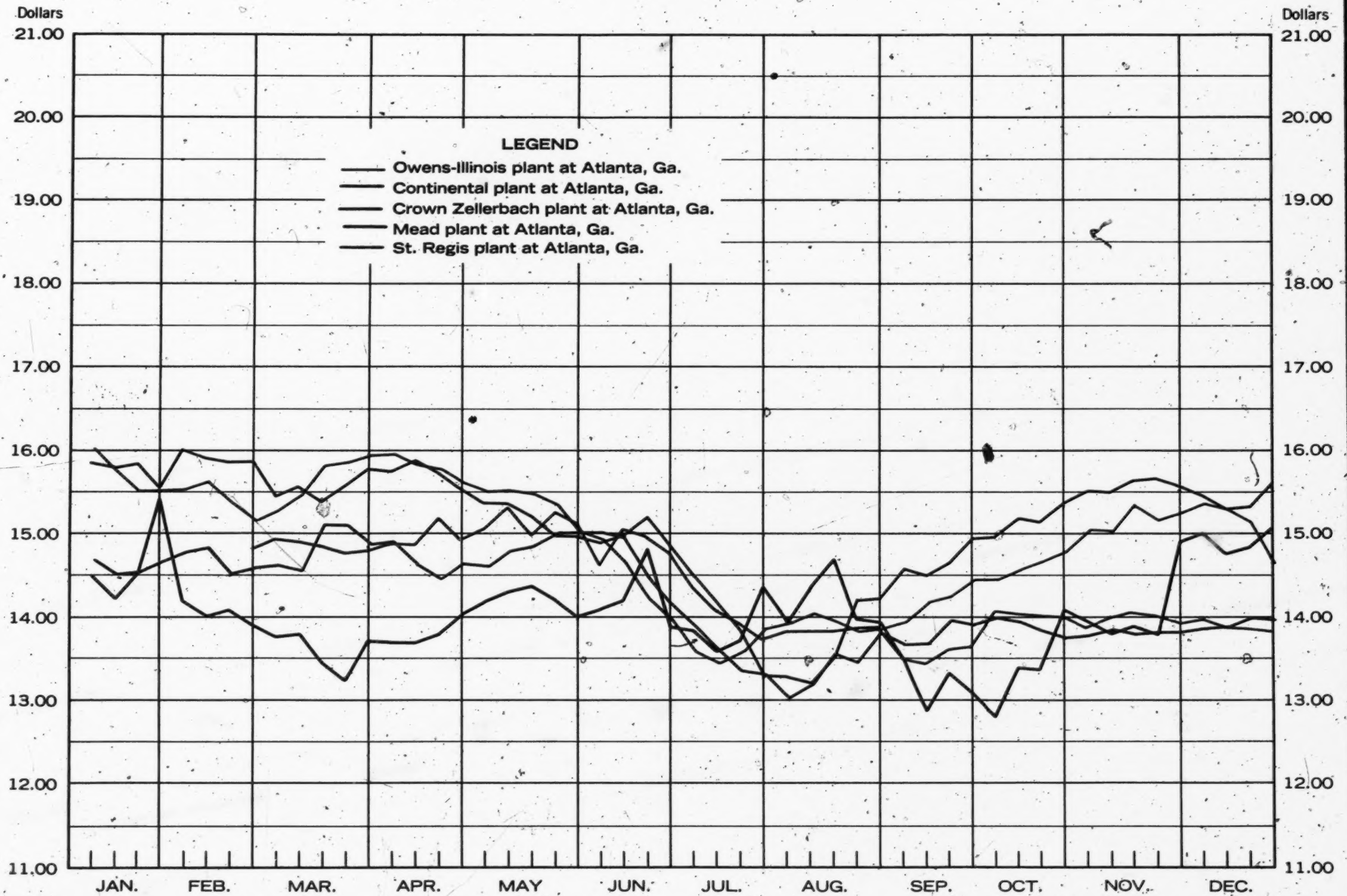
Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS 1961



Source: Exhibit III to the Further Stipulation as to Certain Proof, May 14, 1965.

PRICE TRENDS BY PLANTS 1961

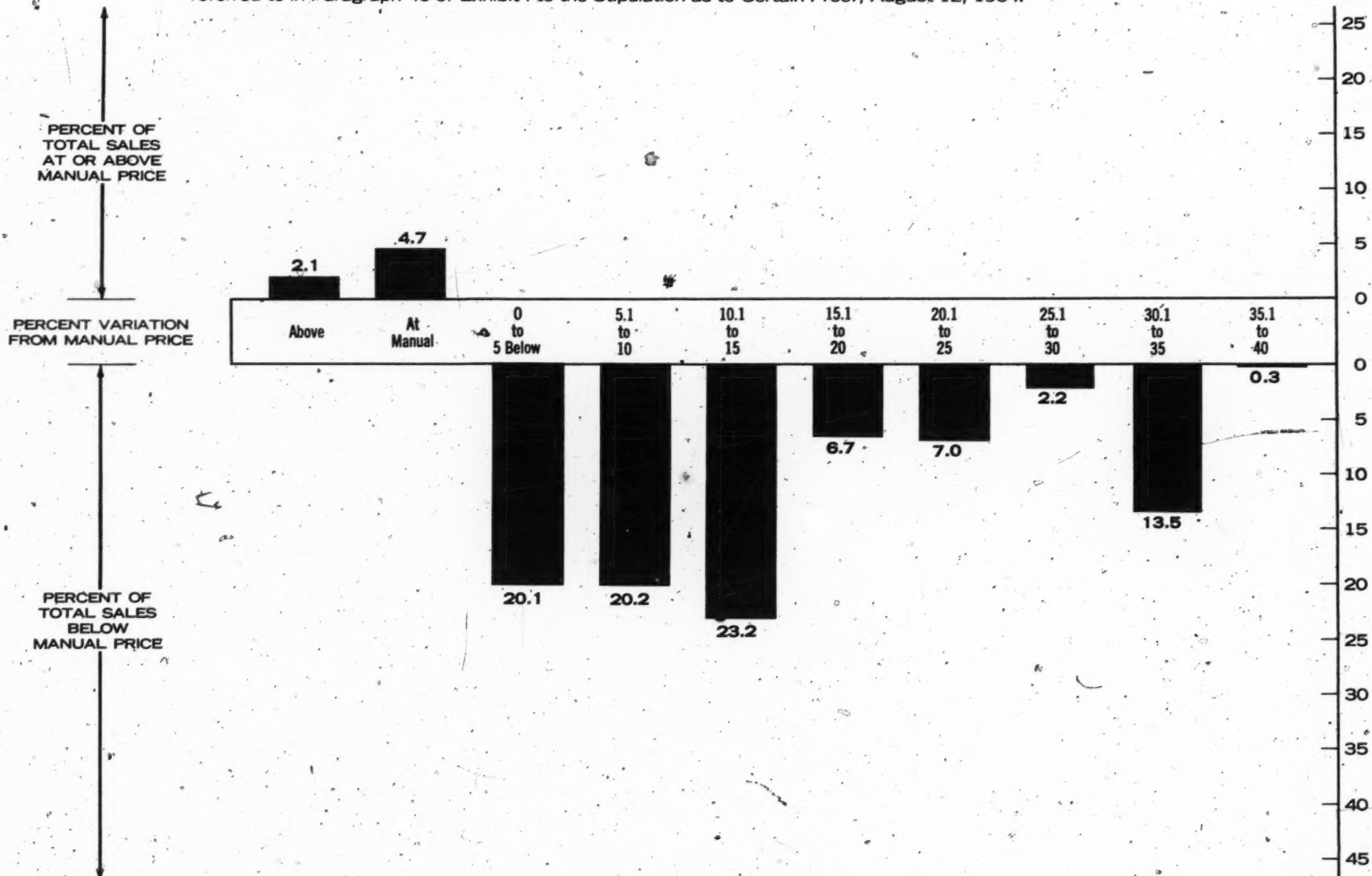


VARIATION FROM MANUAL PRICES OR BOARD LEVELS

These charts illustrate the fact that the great majority of sales of each defendant is made at prices less than the prices would have been if computed on any published manual, and that there is no regular, prevalent or uniform percentage variation from any such computation in common use among any of the defendants, or in use by any individual defendant. See Paragraph 10 of Exhibit I to the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE **CONTAINER CORPORATION PLANT AT WINSTON-SALEM, N.C.**

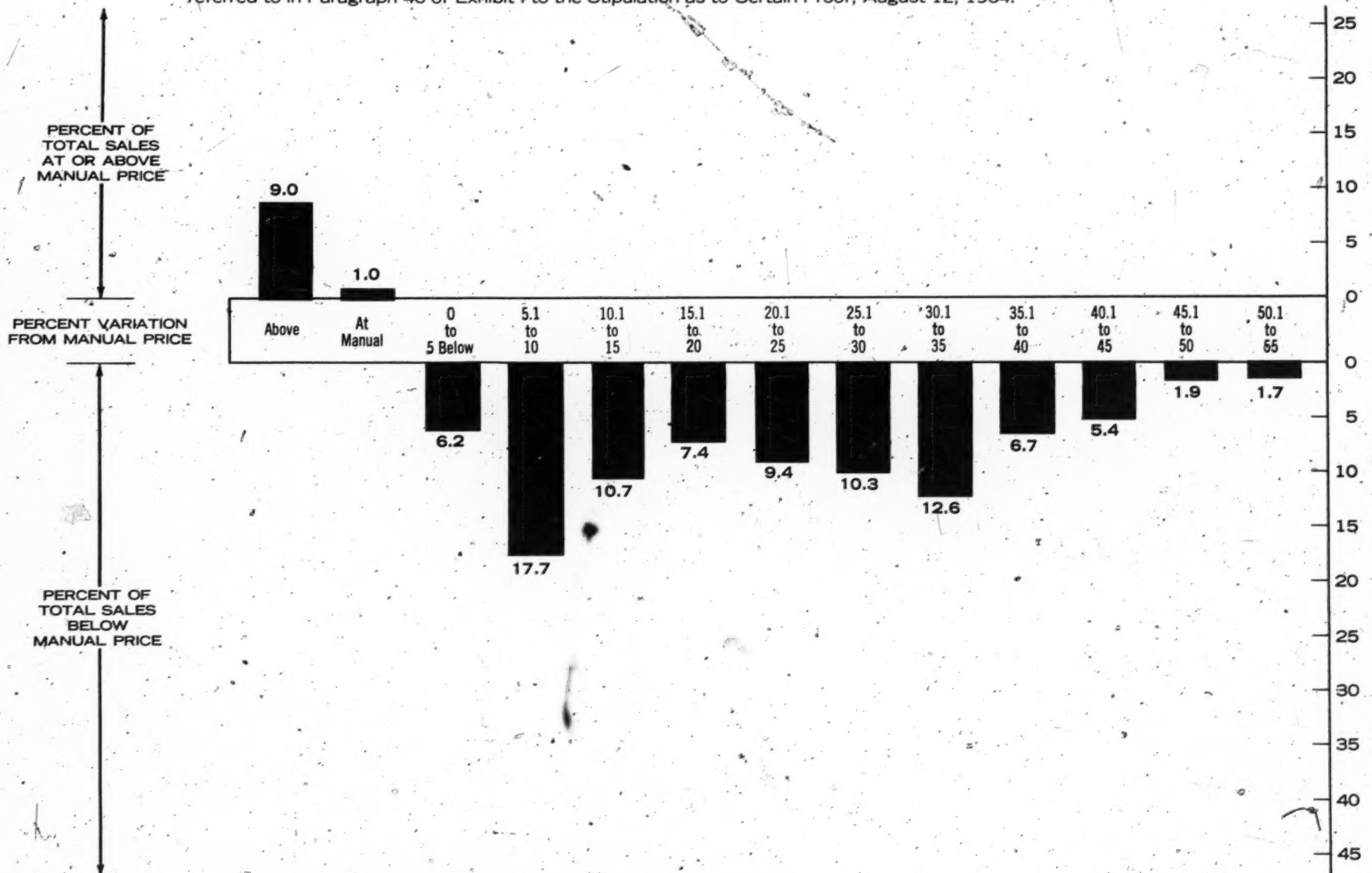
Percentages by which actual selling prices during the month of January 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE **CONTAINER CORPORATION PLANT AT CHATTANOOGA, TENN.**

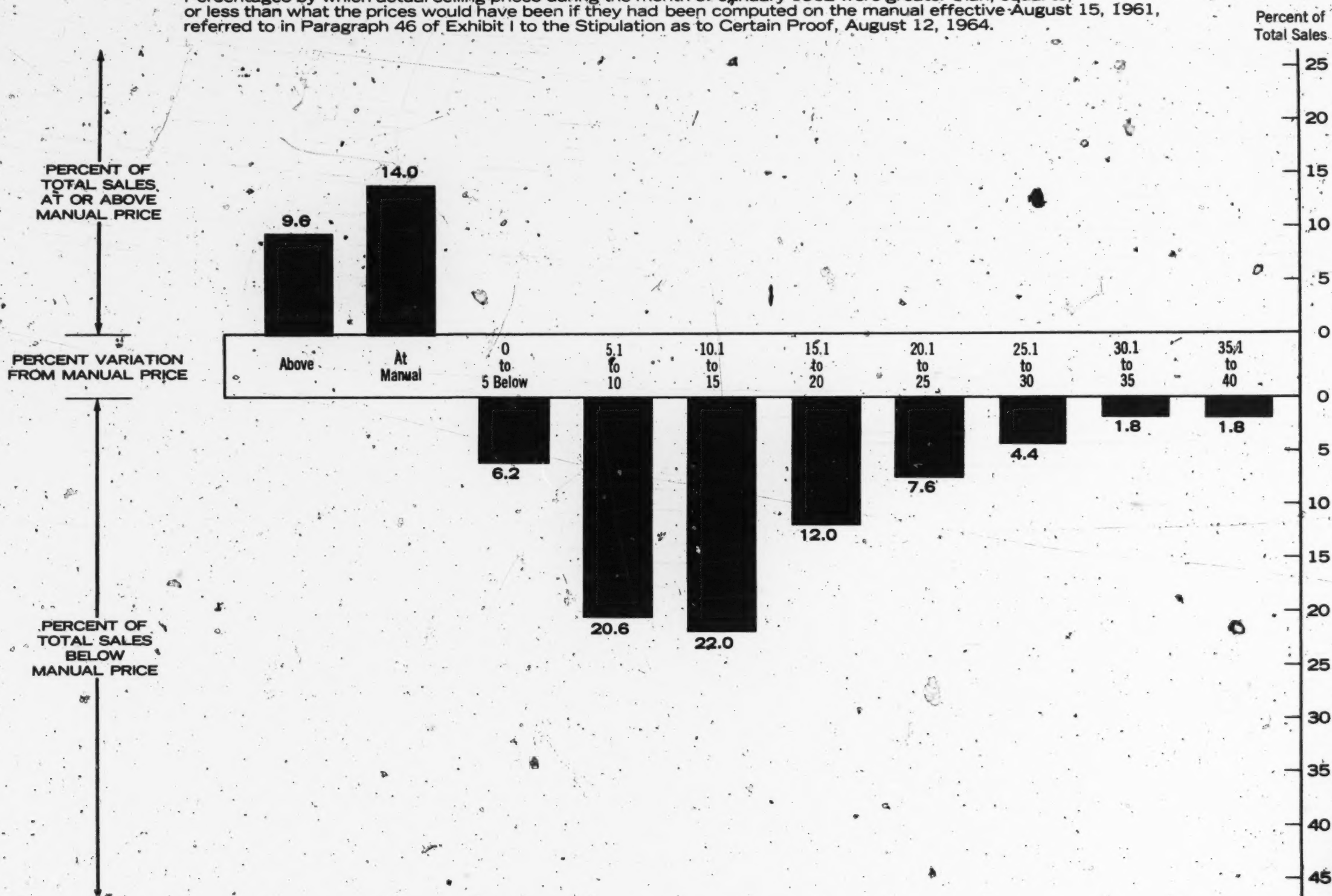
Percentages by which actual selling prices during the month of January 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE CONTAINER CORPORATION PLANT AT KNOXVILLE, TENN.

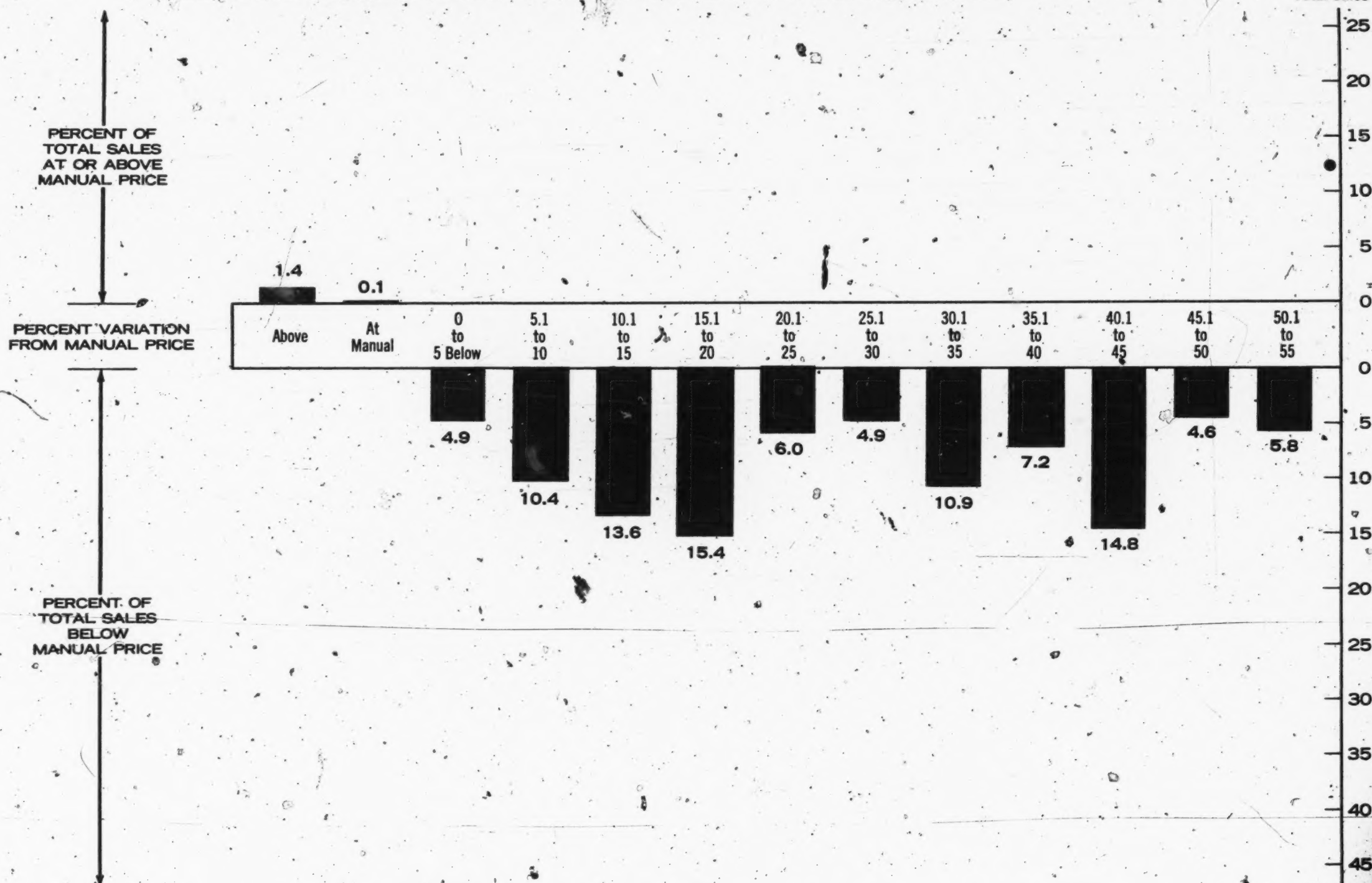
Percentages by which actual selling prices during the month of January 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE **ALBEMARLE PLANT AT RICHMOND, VA.**

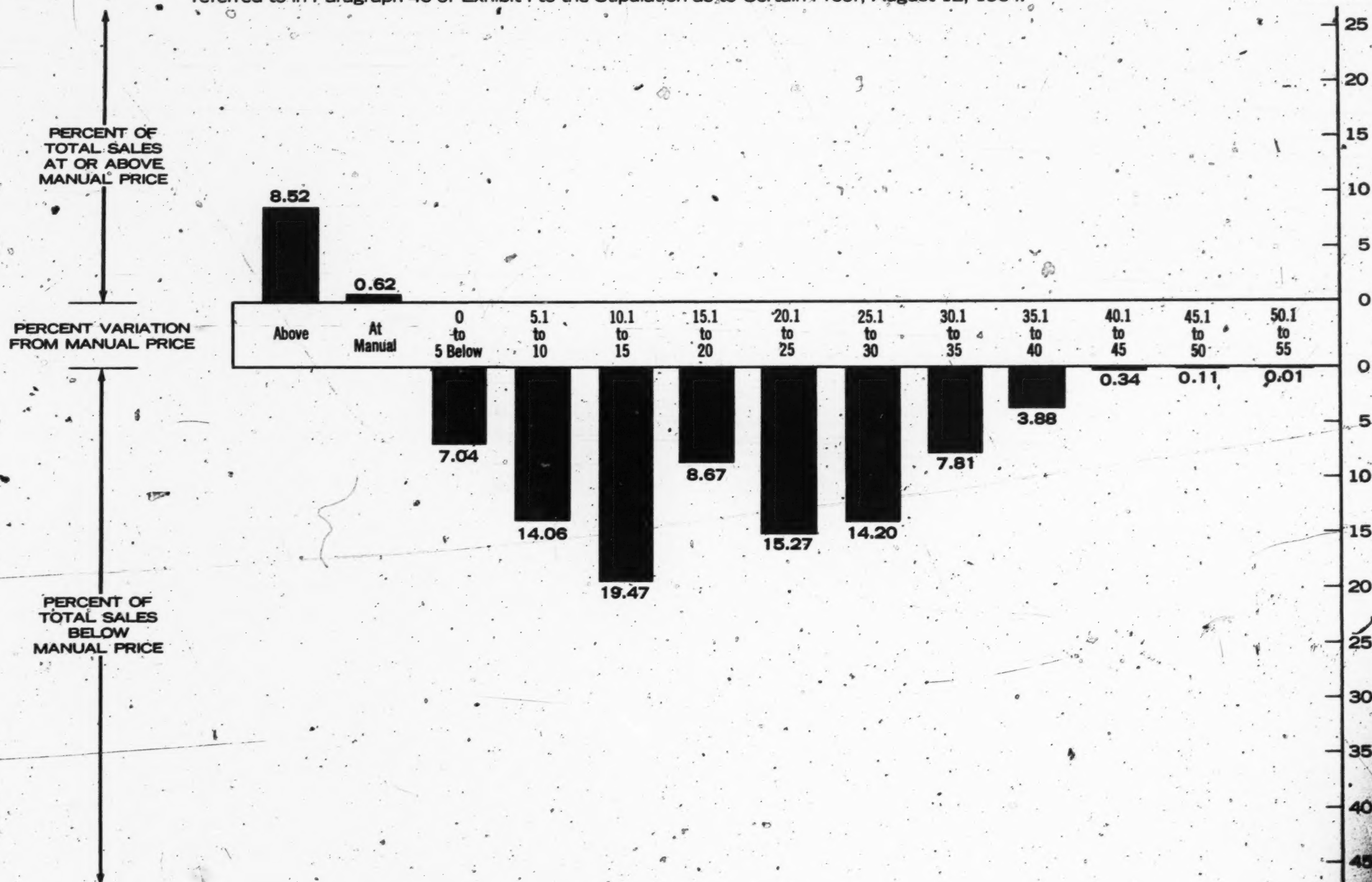
Percentages by which actual selling prices during the month of January 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

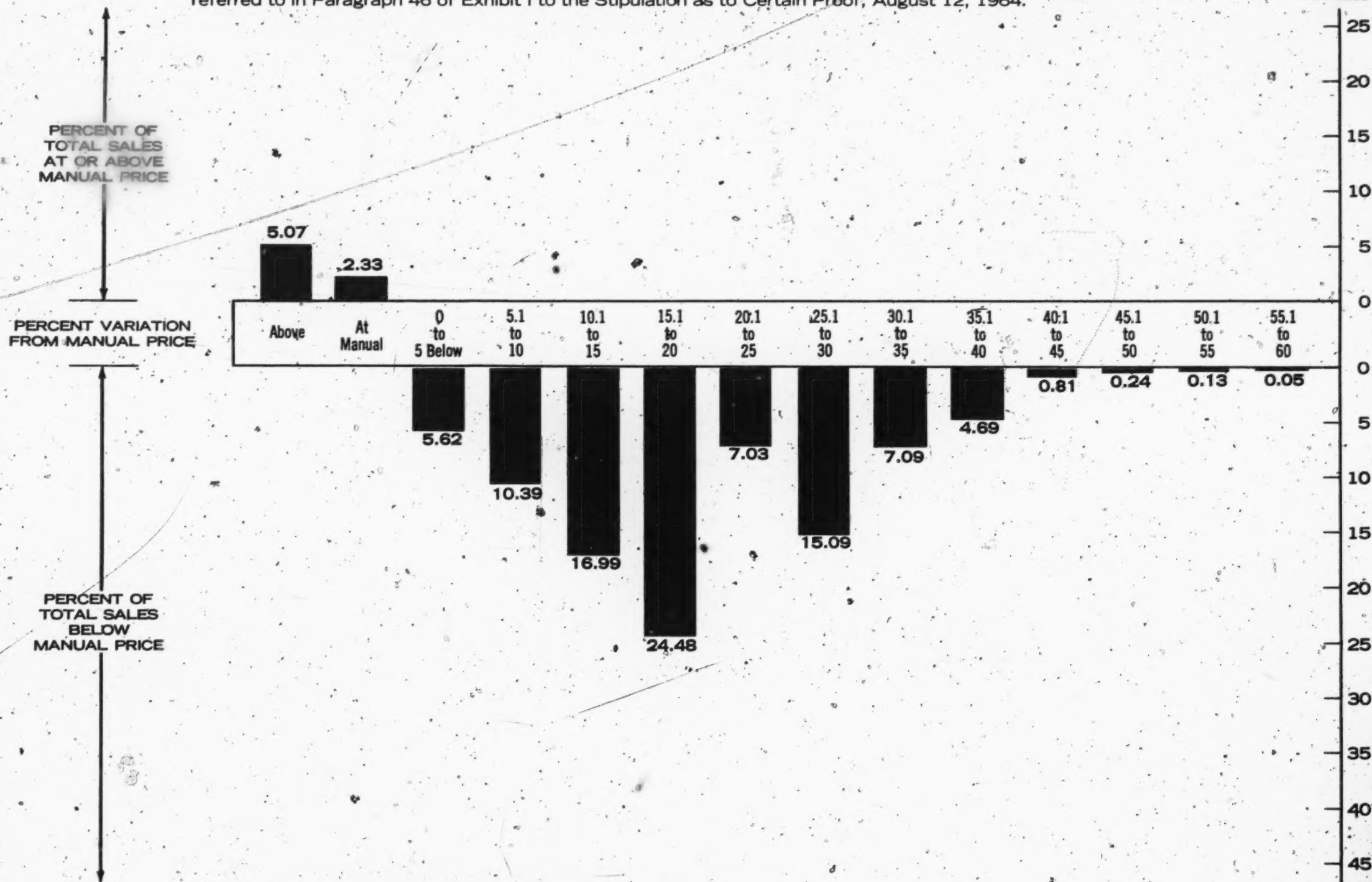
VARIATION FROM MANUAL PRICE CROWN ZELLERBACH PLANT AT ATLANTA, GA.

Percentages by which actual selling prices during the month of January 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



VARIATION FROM MANUAL PRICE **CROWN ZELLERBACH PLANT AT GREENVILLE, S.C.**

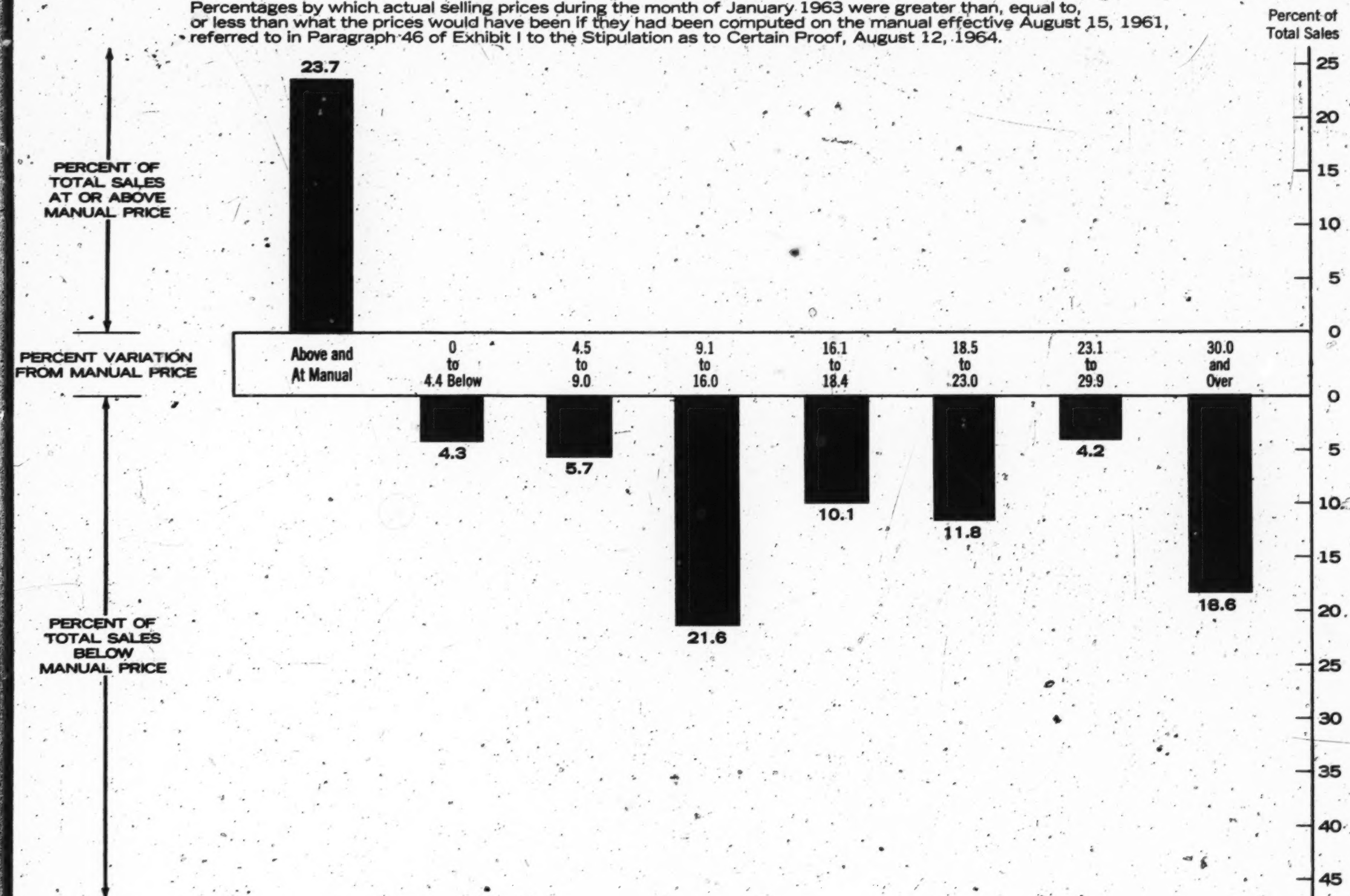
Percentages by which actual selling prices during the month of January 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE DIXIE PLANT AT RICHMOND, VA.

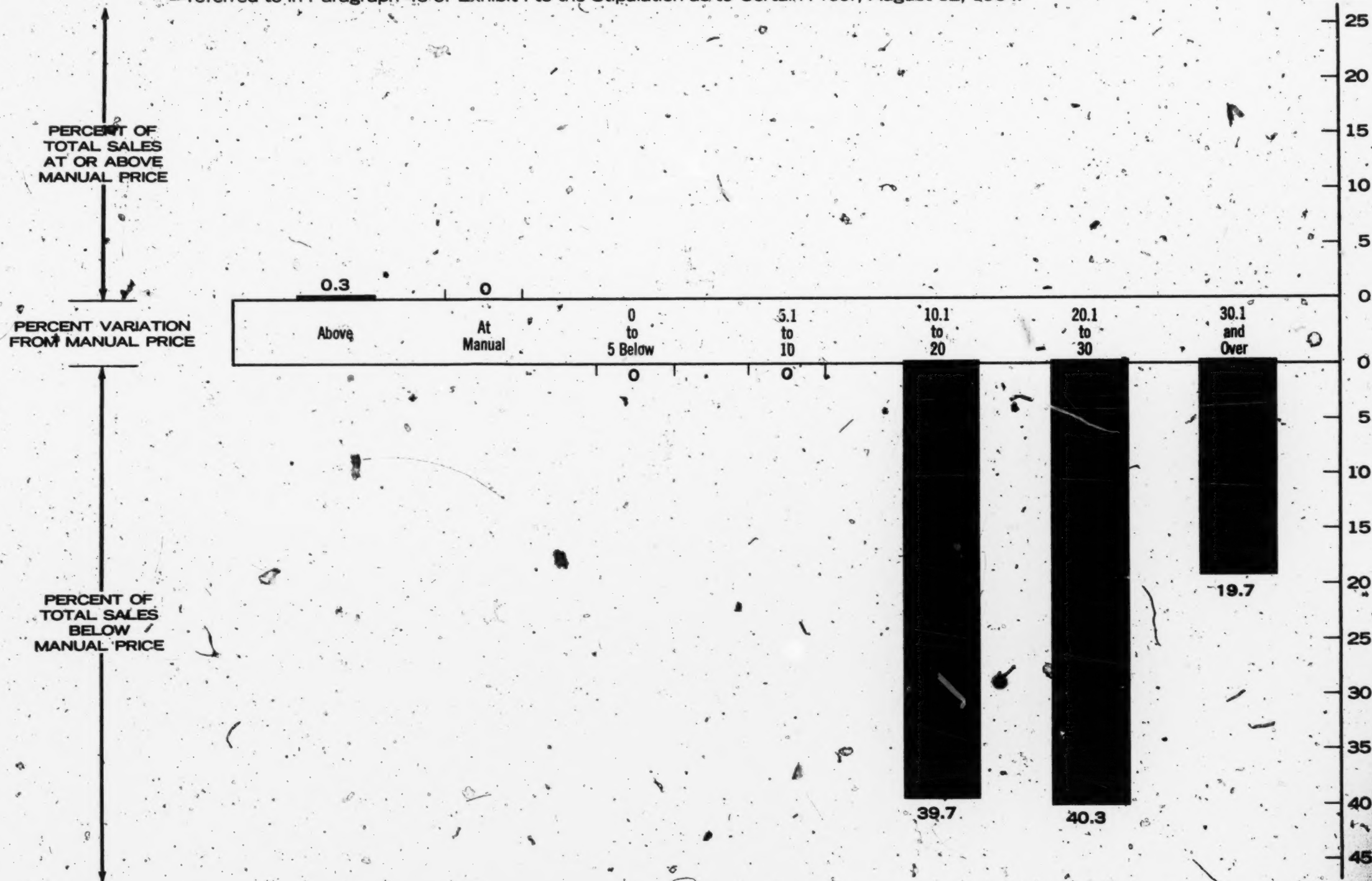
Percentages by which actual selling prices during the month of January 1963 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE INLAND PLANT AT MACON, GA.

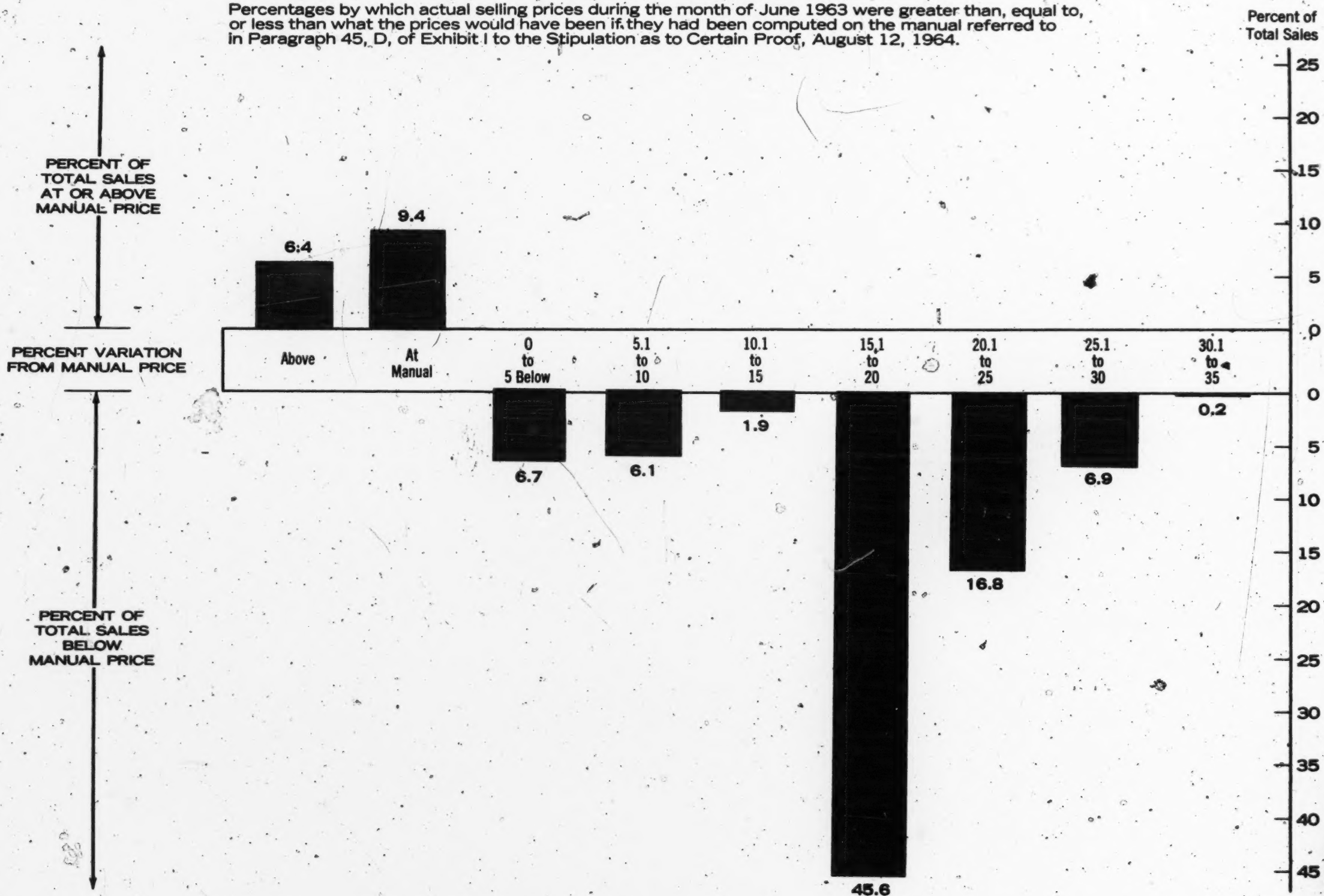
Percentages by which actual selling prices during the month of February 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE MEAD PLANT AT DURHAM, N.C.

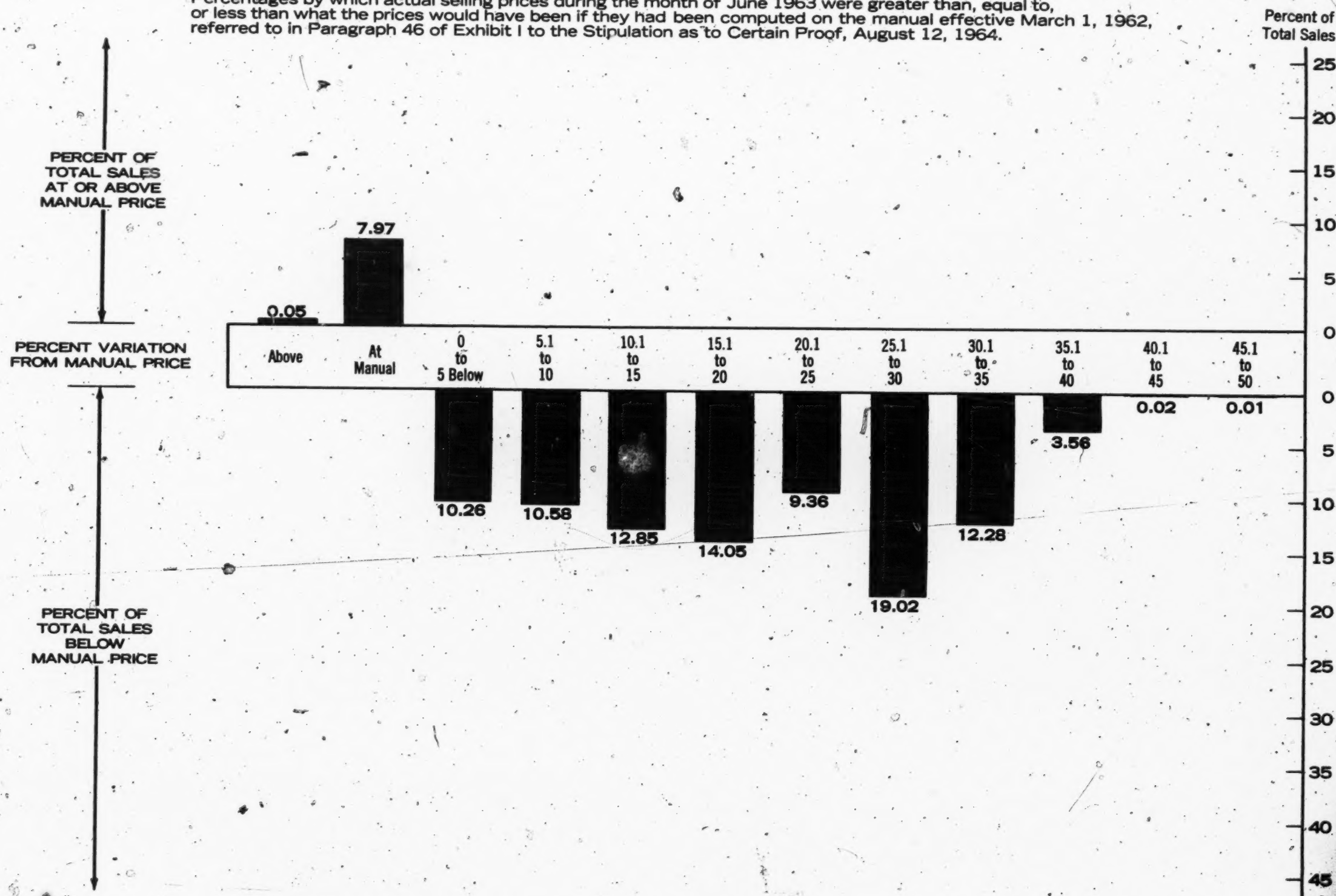
Percentages by which actual selling prices during the month of June 1963 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual referred to in Paragraph 45, D, of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE **OWENS-ILLINOIS PLANT AT SALISBURY, N.C.**

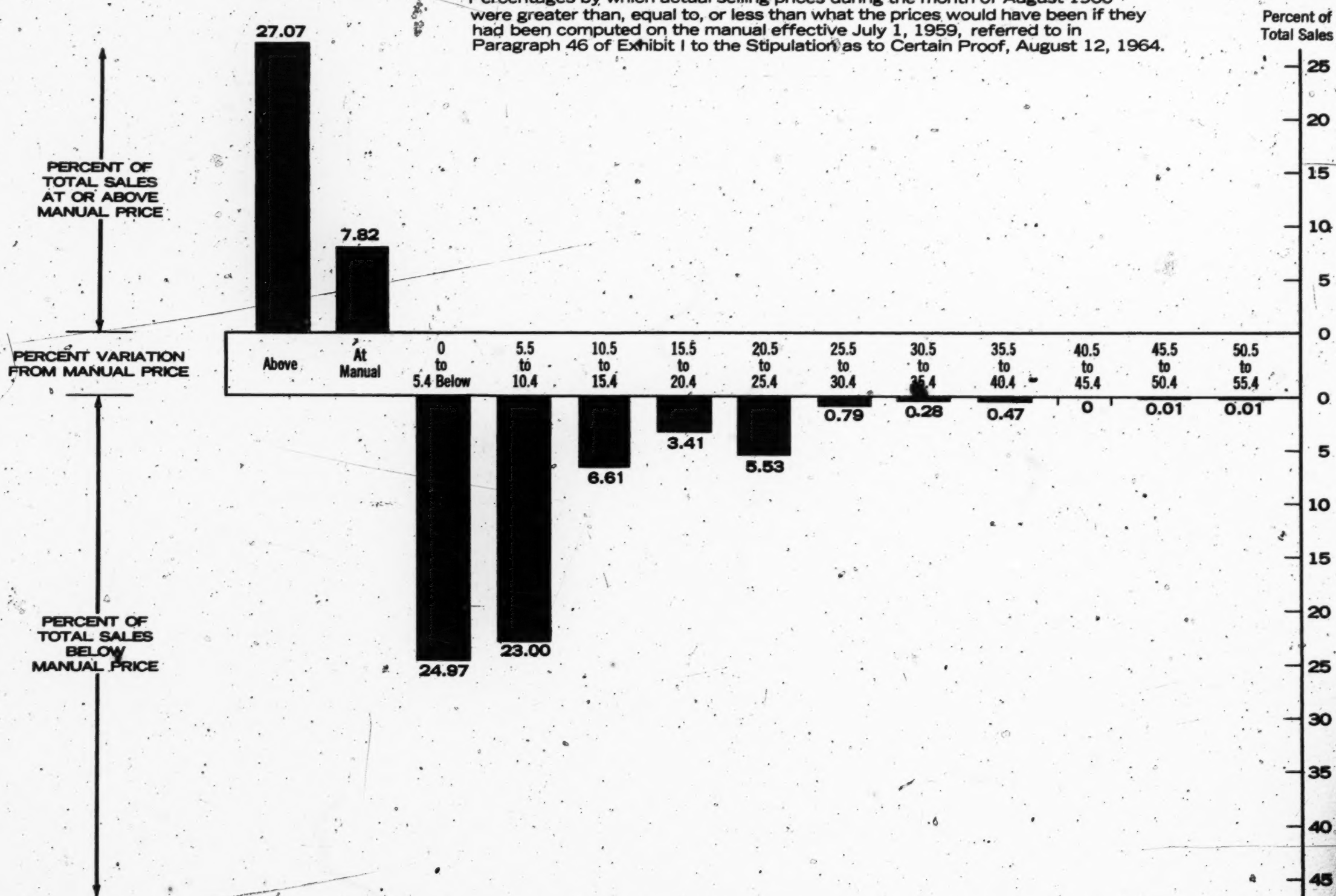
Percentages by which actual selling prices during the month of June 1963 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective March 1, 1962, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

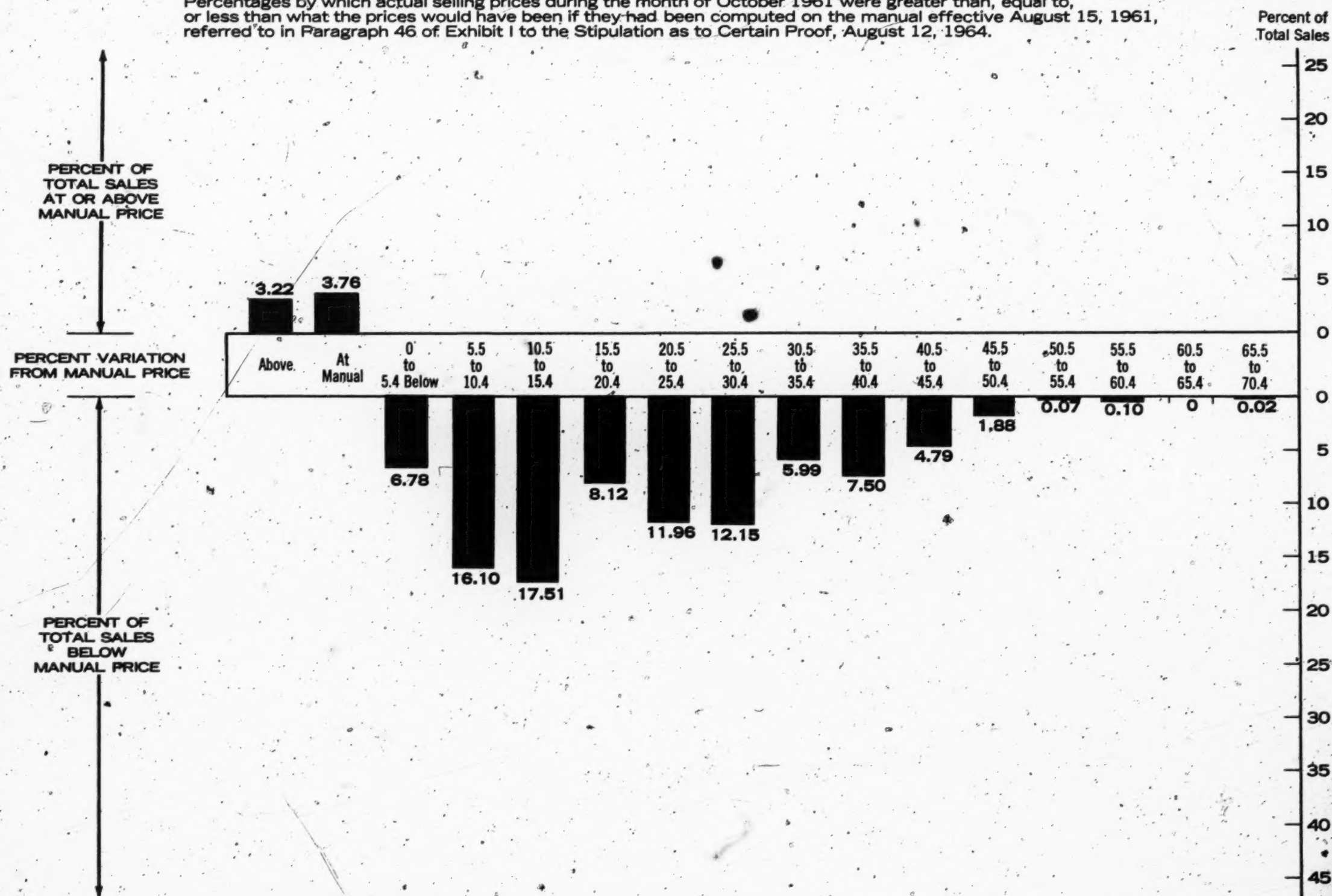
VARIATION FROM MANUAL PRICE **ST. JOE PLANT AT PORT ST. JOE, FLA.**

Percentages by which actual selling prices during the month of August 1960 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective July 1, 1959, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



VARIATION FROM MANUAL PRICE **ST. JOE PLANT AT BIRMINGHAM, ALA.**

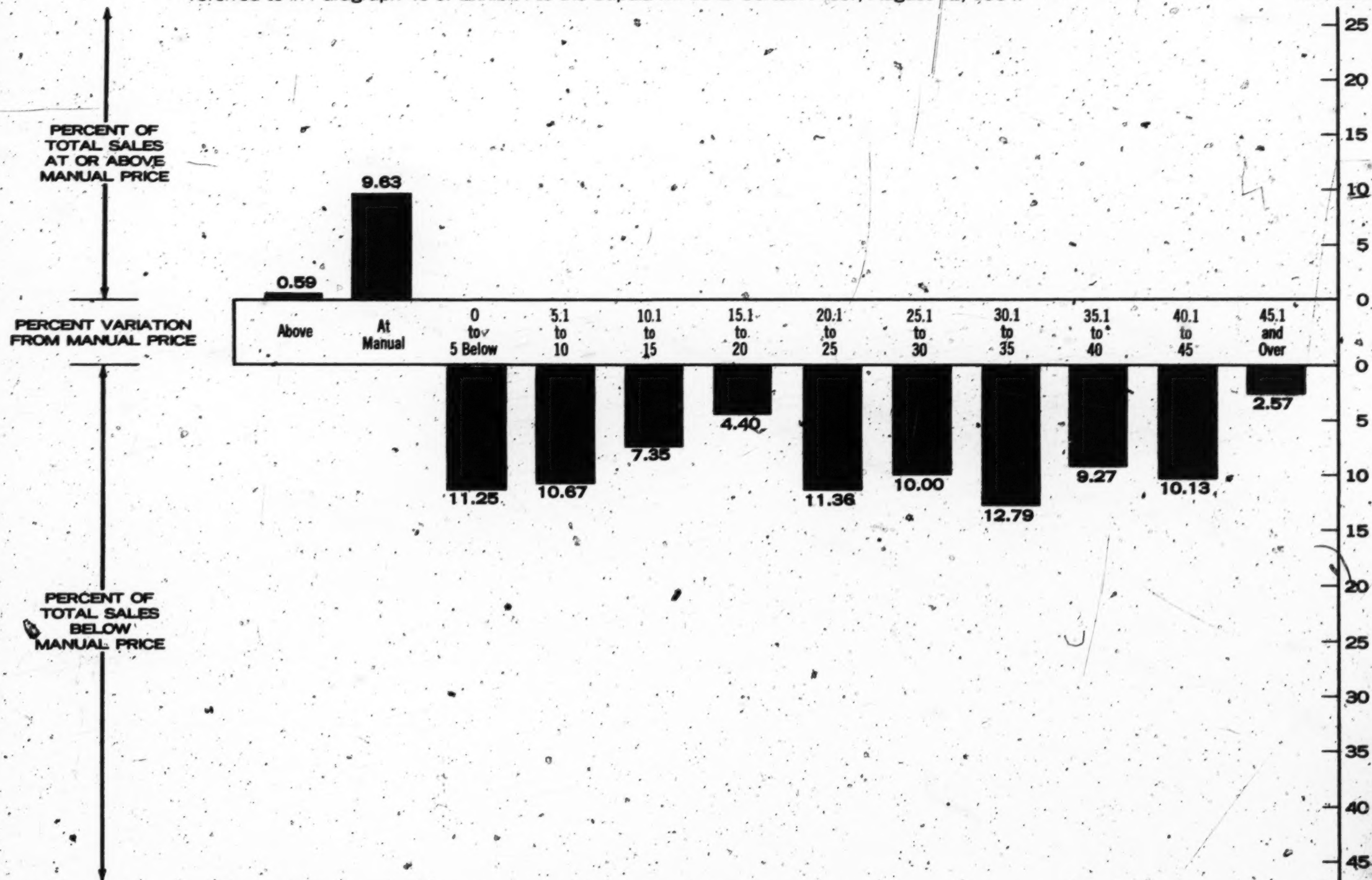
Percentages by which actual selling prices during the month of October 1961 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

VARIATION FROM MANUAL PRICE **WEST VIRGINIA PLANT AT GASTONIA, N.C.**

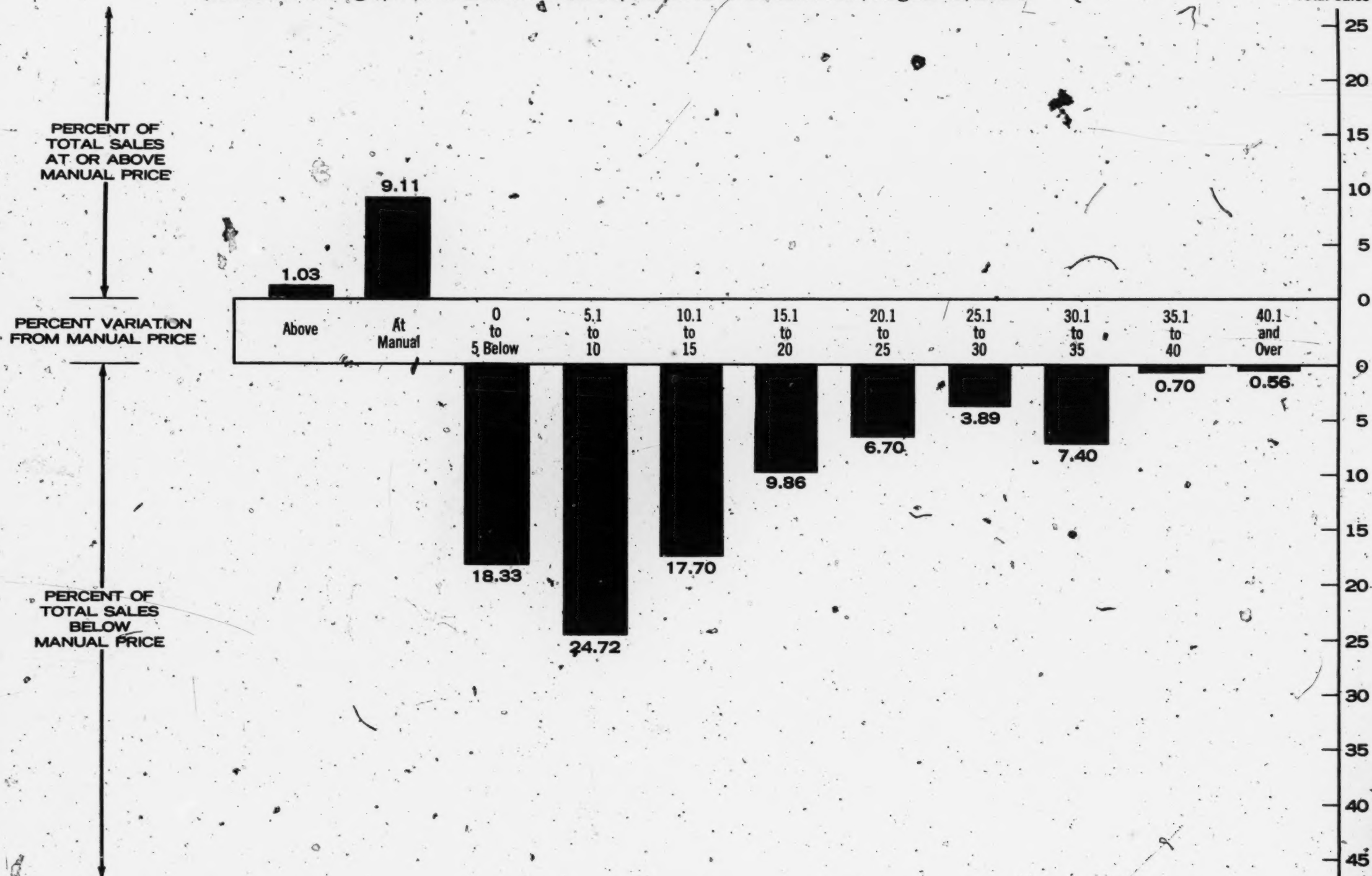
Percentages by which actual selling prices during the month of January 1963 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective March 1, 1962, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

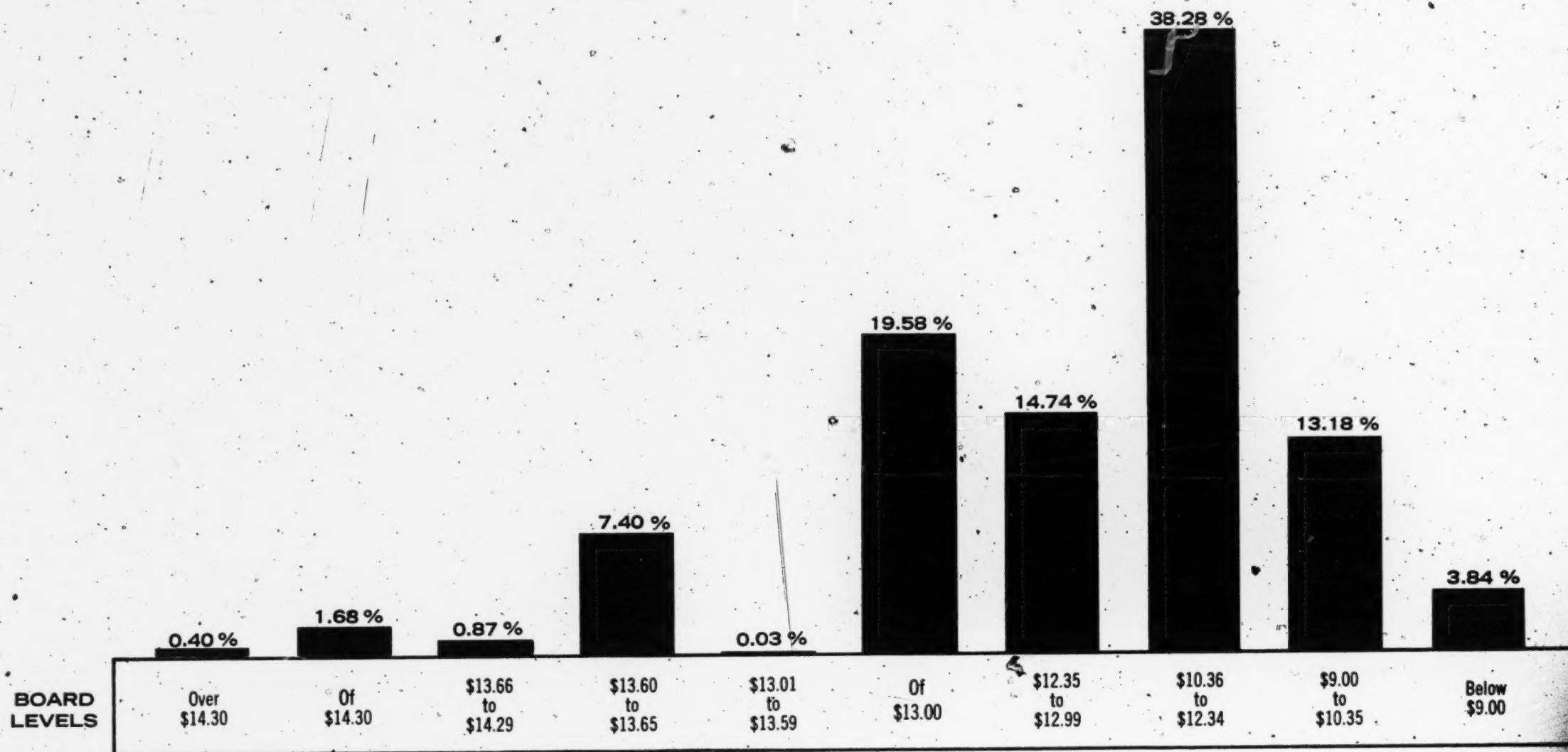
VARIATION FROM MANUAL PRICE **WEYERHAEUSER PLANT AT CHARLOTTE, N.C.**

Percentages by which actual selling prices during the month of March 1962 were greater than, equal to, or less than what the prices would have been if they had been computed on the manual effective August 15, 1961, referred to in Paragraph 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964.



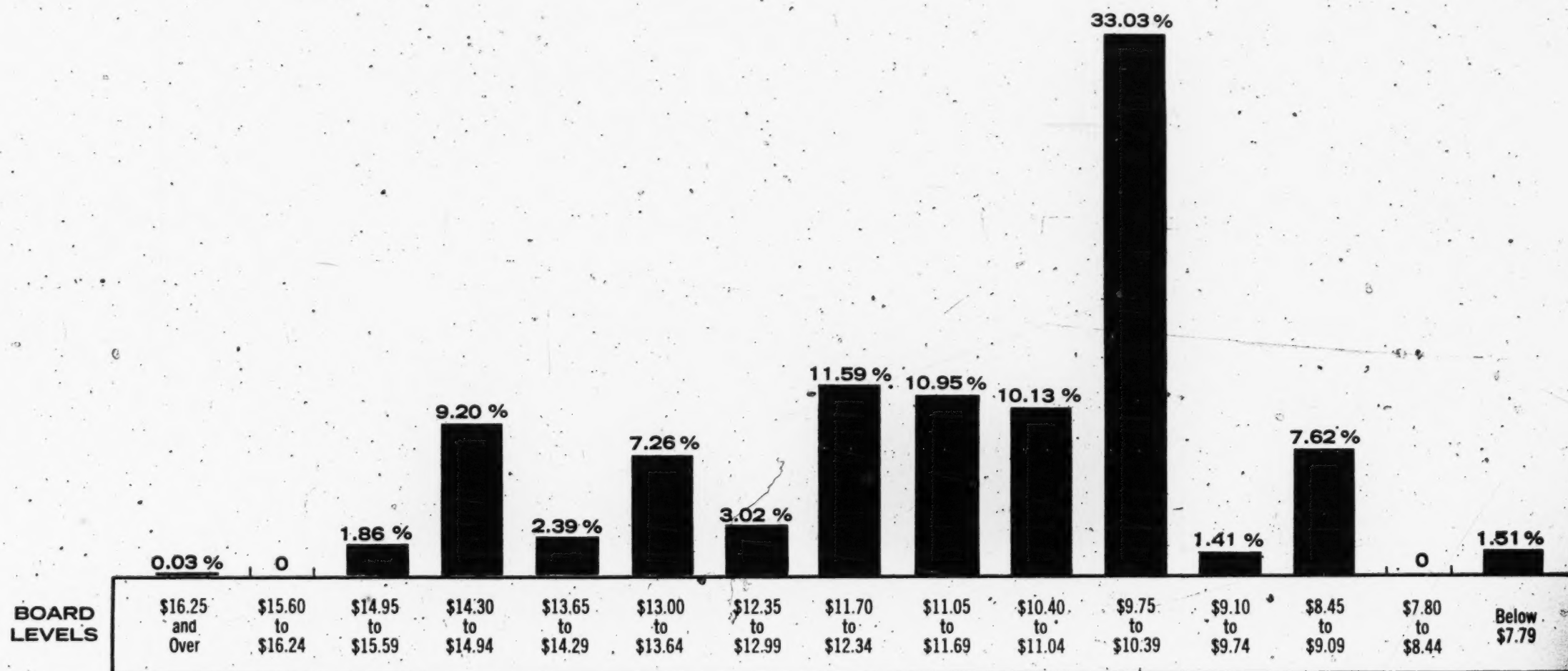
**PERCENTAGES OF SALES MADE DURING
JULY 1963, AT VARIOUS BOARD LEVELS
CONTINENTAL PLANT AT MARTINSVILLE, VA.**

Computed from actual selling prices and expressed in terms of the equivalent board level
per 1,000 sq. ft. for 200 lb. test single wall container board.



**PERCENTAGES OF SALES MADE DURING ONE WEEK
IN DECEMBER 1961, AT VARIOUS BOARD LEVELS
INTERNATIONAL PLANT AT GEORGETOWN, S.C.**

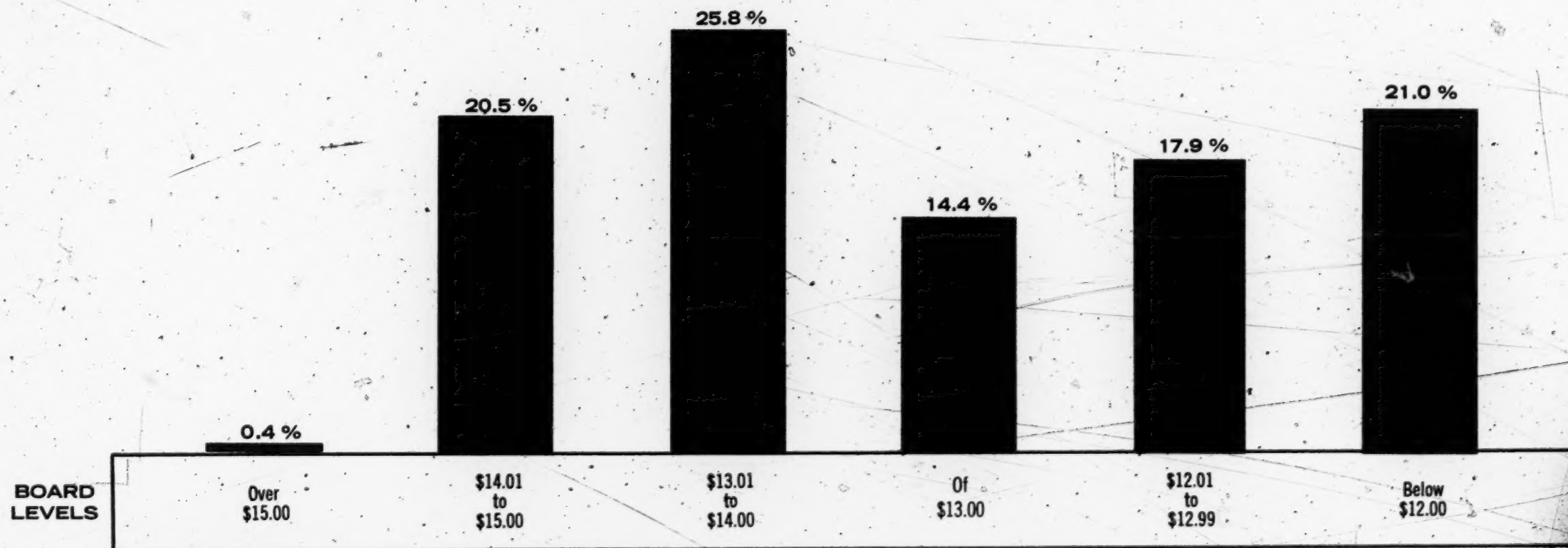
Computed from actual selling prices and expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.



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**PERCENTAGES OF SALES MADE DURING
OCTOBER 1962, AT VARIOUS BOARD LEVELS
MILLER PLANT AT ROANOKE, VA.**

Computed from actual selling prices and expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.

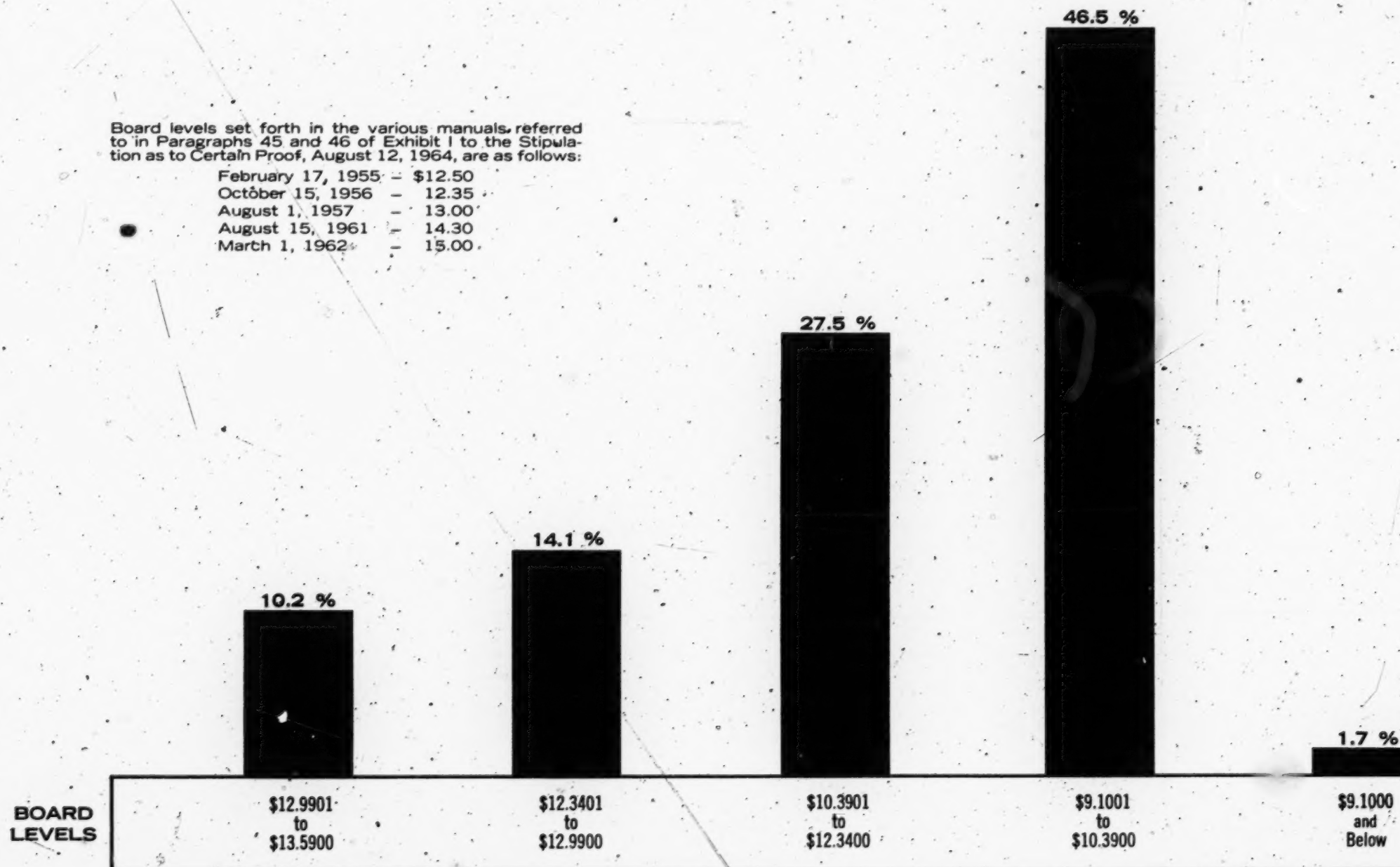


**PERCENTAGES OF SALES MADE DURING
JULY 1961, AT VARIOUS BOARD LEVELS
UNION-CAMP PLANT AT JAMESTOWN, N.C.**

Computed from actual selling prices and expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.

Board levels set forth in the various manuals, referred to in Paragraphs 45 and 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964, are as follows:

February 17, 1955 - \$12.50
October 15, 1956 - 12.35
August 1, 1957 - 13.00
August 15, 1961 - 14.30
March 1, 1962 - 15.00

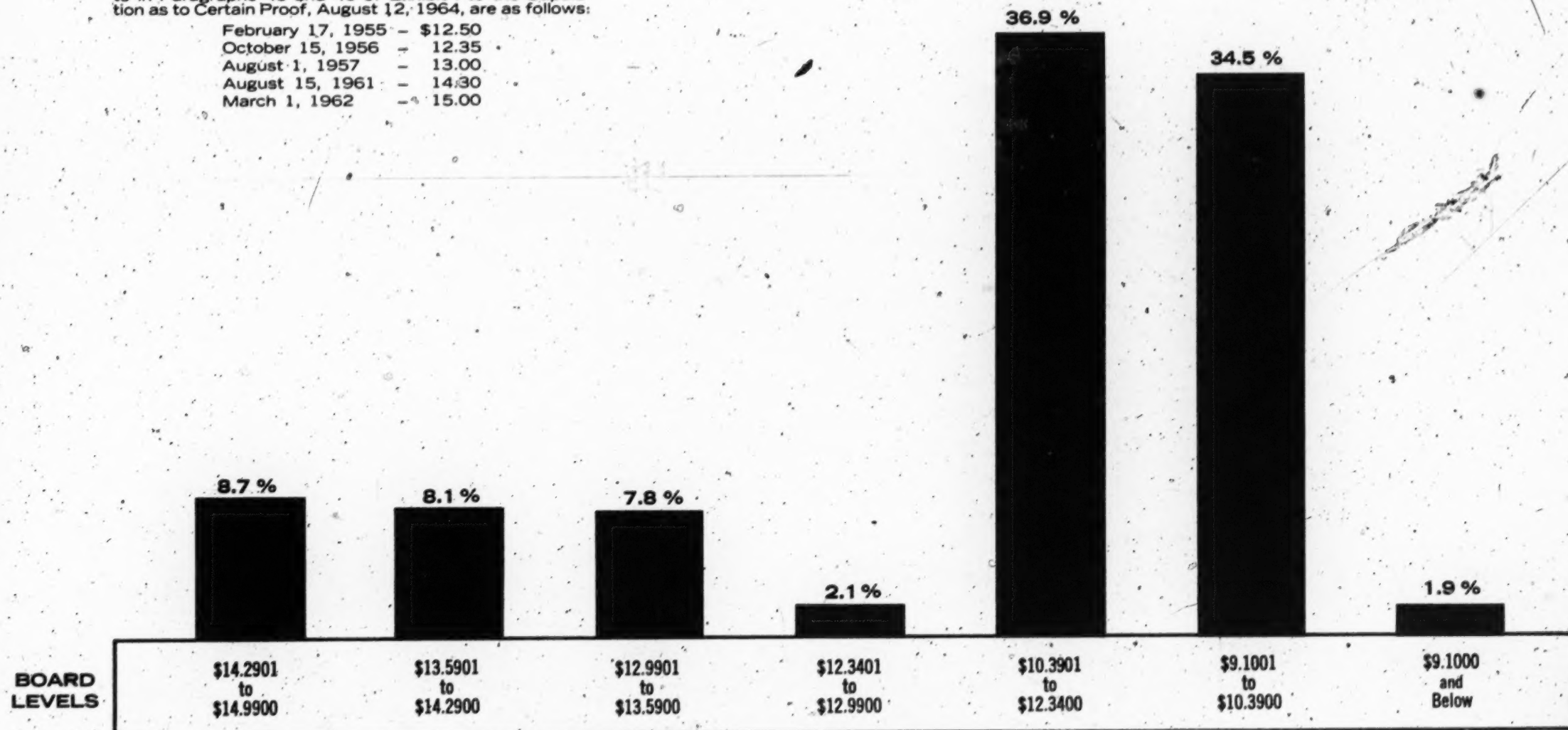


**PERCENTAGES OF SALES MADE DURING
OCTOBER 1961, AT VARIOUS BOARD LEVELS
UNION-CAMP PLANT AT JAMESTOWN, N.C.**

Computed from actual selling prices and expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.

Board levels set forth in the various manuals referred to in Paragraphs 45 and 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964, are as follows:

February 17, 1955 - \$12.50
October 15, 1956 - 12.35
August 1, 1957 - 13.00
August 15, 1961 - 14.30
March 1, 1962 - 15.00



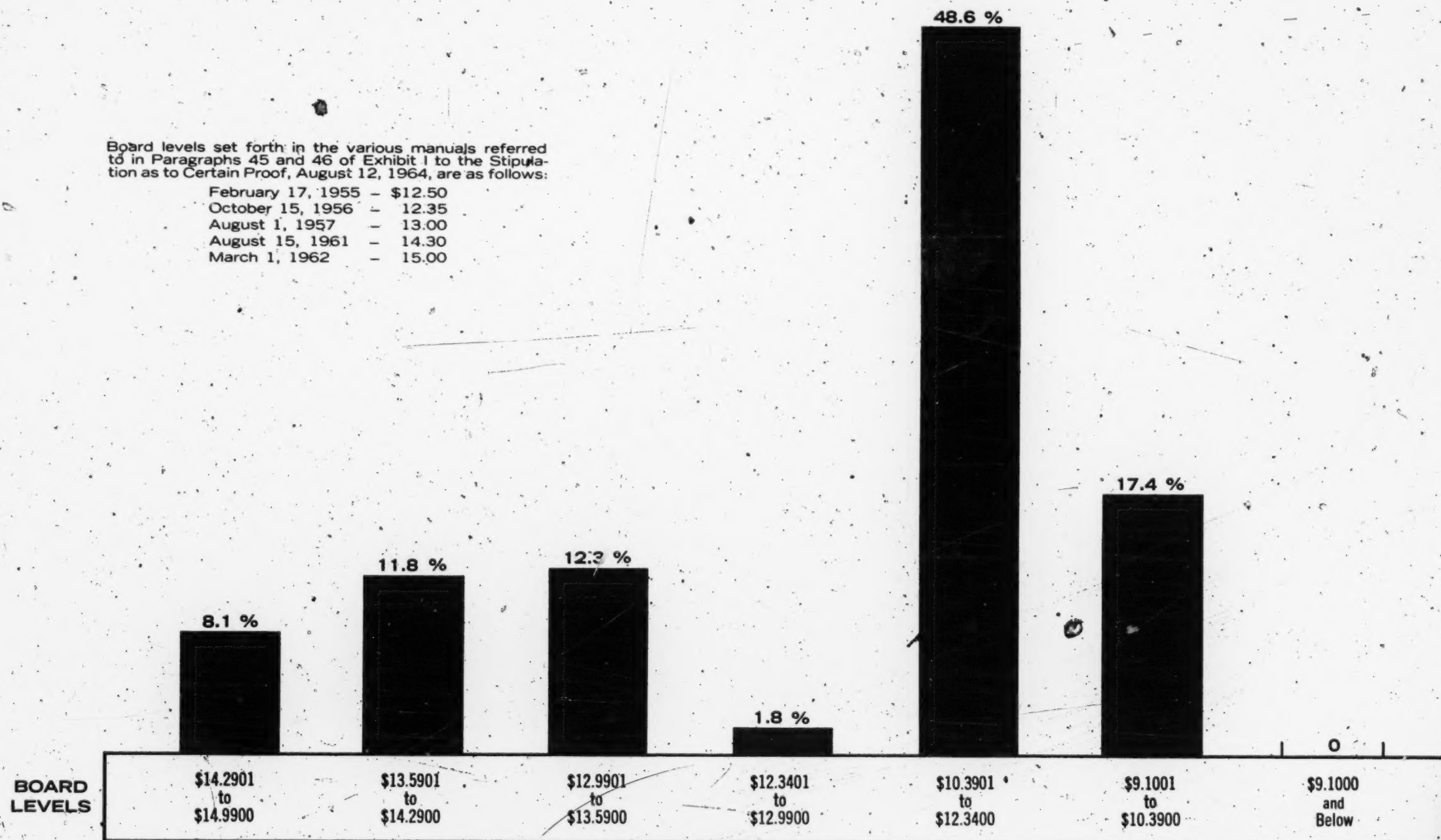
Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

PERCENTAGES OF SALES MADE DURING FEBRUARY 1962, AT VARIOUS BOARD LEVELS UNION-CAMP PLANT AT JAMESTOWN, N.C.

Computed from actual selling prices and expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.

Board levels set forth in the various manuals referred to in Paragraphs 45 and 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964, are as follows:

February 17, 1955 - \$12.50
October 15, 1956 - 12.35
August 1, 1957 - 13.00
August 15, 1961 - 14.30
March 1, 1962 - 15.00



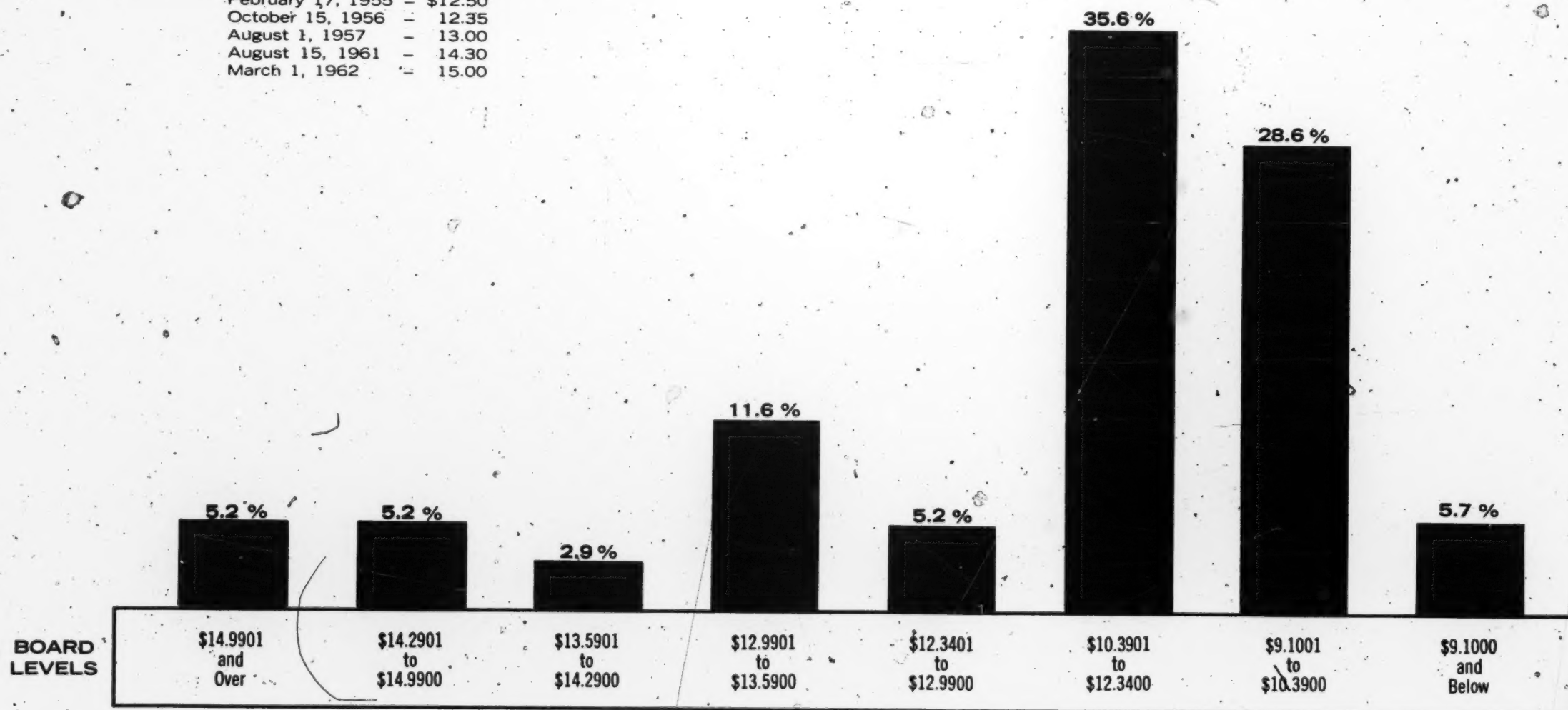
Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.

**PERCENTAGES OF SALES MADE DURING
MARCH 1963, AT VARIOUS BOARD LEVELS
UNION-CAMP PLANT AT JAMESTOWN, N.C.**

Computed from actual selling prices and expressed in terms of the equivalent board level per 1,000 sq. ft. for 200 lb. test single wall container board.

Board levels set forth in the various manuals referred to in Paragraphs 45 and 46 of Exhibit I to the Stipulation as to Certain Proof, August 12, 1964, are as follows:

February 17, 1955 - \$12.50
October 15, 1956 - 12.35
August 1, 1957 - 13.00
August 15, 1961 - 14.30
March 1, 1962 - 15.00



Source: Table 3 of the Further Stipulation as to Certain Proof, May 14, 1965.